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REVIEW OF THE FEDERAL GOVERNMENT'S USE OF CONSULTANTS

HEARING

BEFORE THE

SUBCOMMITTEE ON FEDERAL SERVICES, POST OFFICE, AND CIVIL SERVICE

OF THE

COMMITTEE ON GOVERNMENTAL AFFAIRS UNITED STATES SENATE

ONE HUNDREDTH CONGRESS

SECOND SESSION

JUNE 13, 1988

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REVIEW OF THE FEDERAL GOVERNMENT'S USE OF CONSULTANTS

MONDAY, JUNE 13, 1988

U.S. SENATE,
SUBCOMMITTEE ON FEDERAL SERVICES,
POST OFFICE, AND CIVIL SERVICE,
COMMITTEE ON GOVERNMENTAL AFFAIRS,
Washington, DC.

The Subcommittee met, pursuant to notice, at 10 a.m. in room SD-342, Dirksen Senate Office Building, Hon. David Pryor, chairman of the Subcommittee, presiding.

Present: Senators Pryor and Stevens.

OPENING STATEMENT OF SENATOR PRYOR

Senator PRYOR. Good morning, ladies and gentlemen. The Subcommittee will come to order.

Today we revisit an issue that I have been concerned with for almost a decade, and that's the Federal Government's use of consultants and private advice. I first became involved in the consultant issue in 1979 as Chairman of the predecessor committee to this one. Now, as Chairman of the Federal Services, Post Office, and Civil Service Subcommittee, I feel an obligation to the American taxpayer to see if the disturbing problems we found previously still exist. Unfortunately, based on what I have found so far, I believe they do. In fact, I think they are worse rather than better.

A high percentage of consultant contracts are sole-source without competition. Our Government still does not know how much we are spending on consultants. In fact, after some 10 years we do not even have today an accepted definition of what a consultant is. But what is most frustrating is that the Inspectors General, the very individuals charged with acting as independent watchdogs in the Federal agencies, in many cases are doing absolutely nothing with regard to consultants.

For example, from the Department of the Interior, a letter I received just over the weekend, and it is from the Deputy Inspector General:

> The Department of Interior's Office of Inspector General has not performed an audit of Interior's use of consultants in the last 5 years. Therefore, we have not assessed Interior's management of consultant services. However, we plan to begin a limited scope review of the Department's use of consulting services on or about July 6, 1988.

That is from the Deputy Inspector General from the Department of the Interior.

Look at the Inspector General from the Department of Agriculture: "To my knowledge, no Government-wide study, audit, survey or report on this subject has ever been conducted or published by the PCIE." That's the President's Council on Integrity and Efficiency. "In addition, the audit committee does not presently have any such project in process."

We are not talking today about stepladders, ash trays, or toilet seats. We are talking about our Government paying for private advice from the private sector who make their living off of Government agencies. We are talking about "cozy relationships" and sole-source contracts in the world's most profitable "buddy system." We are talking about "buying-in cheap" on a contract and "add-ons" for years later being granted by whims and friendships.

We are talking about duplication of studies, unnecessary reports and unneeded services at a time when we are scratching to fund research for cancer and child nutrition programs.

We are talking about greed, an absence of checks and balances, sloppy oversight, and in the end, I think, the great taxpayer rip-off.

Some refer to consultants as the "Beltway Bandits." Several years ago a book was written by a fine young attorney by the name of Dan Guttman, "The Shadow Government," dealing with the overwhelming dependence of the Federal Government on contracting with consultants.

Another book has recently been published, written by John D. Hanrahan, entitled "Government by Contract," in which he discusses the cost of the Government and how these contracts are wired in. I have called the consulting industry the "unelected Government."

The General Accounting Office, which is assisting my Subcommittee staff as we examine the consulting issue, will testify first this morning. Following GAO, we have witnesses representing both the Office of Management and Budget and the Office of Personnel Management.

Let me touch upon some of the problems, briefly, which I have found to be so persistently intertwined with consultants and the paying for private advice.

One, costs to the taxpayers are enormous. The spiraling costs for consultant contracts demand increased scrutiny by the executive and legislative branches. Why is it that we cannot nor do not monitor these contracts? In fiscal year 1981, agencies reported to the Federal Procurement Data System a total of $144 million spent on consultants. These same agencies reported $242 million spent in consultant contracts for fiscal year 1987. This reveals about a $100 million increase during the Reagan Administration. However, virtually everyone agrees these figures are substantially understated. In fact, these low figures are an insult to our intelligence.

As shown in the exhibit on my left,[1] our estimate for fiscal year 1987, which is near the top of the range of estimates, indicates that actually some $25 billion may have been spent on consultant contracts during 1987 alone. More conservative estimates put the figure somewhere in the neighborhood of $5 to $20 billion; $25 bil-

[1] See p. 81.

lion is the amount the Government spent on management reviews, management professional services, special studies, technical assistance and a variety of other contracts which, according to a 1984 Cabinet Council on Management and Administration study, should be largely classified as consultant services. The trouble is agencies do not necessarily report all of the contracts as consultants. In other words, the agencies admitted spending $243 million on consultants in 1987 when, in fact, they probably spent somewhere in the billions.

One of the most disturbing developments we have uncovered recently is that the law today is being ignored; 31 USC Section 1114, entitled "Budget Information and Consulting Services," requires, mandates, Inspector Generals or a comparable official of Federal agencies to conduct evaluations of their agency's use of consultants and outside advice from the private sector.

Some Inspectors General have concluded they are not in fact required to conduct such a review. I found this to be incredible. Both the American Law Division of the Congressional Research Service and the General Accounting Office have provided me with legal opinions which indicate that 31 USC Section 1114 is indeed good law.[1] I will make their opinions a part of the record.

Why is the law being ignored? I will ask Mr. Joe Wright, who is also the Chairman of the President's Council on Integrity and Efficiency, an organization made up of the Inspectors General, to respond to this particular question.

The other problem we have is the definition problem. The central dilemma associated with consultants in 1980 was the problem of defining a consultant contract. Unless the Federal Government is operating from the same frame of reference, that is, unless the OMB and the Federal agencies can all agree on what kinds of contracts we are concerned about, the problem is never going to be addressed. If the Government cannot decide which contracts are for private outside service, then it also cannot decide which contracts should be subject to special review and reporting requirements.

Eight years after first recognizing the definition problem and 4 years after the most worthwhile examination of this issue by the Cabinet Council on Management and Administration [CCMA], OMB finally made an effort to address it by redrafting OMB Circular A-120, which sets guidelines for the use of consultants.

In the new and so-called improved A-120, OMB has expanded the definition of contracts from "consultants" to "advisory services contracts." While I believe this is a step in the right direction, since it broadens the universe of those contracts we are talking about, it is in fact a sluggish, bureaucratic response to a problem that requires prompt action. Eight years have passed and nothing to control this growing rip-off has occurred. This, to me, is unthinkable.

Some agencies claim they have no consultant contracts, based on what I believe to be an unreasonably narrow reading of the Circular A-120 definition. An example of this is the Small Business Administration. The SBA's Inspector General recently wrote to me

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[1] See p. 82 for the American Law Division legal opinion and p. 61 for the GAO legal opinion.

and stated, "During the past 3 years SBA has not awarded any contracts for management consultant services."

On behalf of the Subcommittee, GAO has examined SBA's records and will testify as to the consultant activity found in that particular agency of Government.

There continues to be the problem of never-ending contracts, which are called, "modifications." In 1987, for example, the Environmental Protection Agency [EPA] paid a consulting firm $160,000 to conduct a study of environmental auditing. This year the EPA is paying the same firm an extra $45,000 to revise the study. This past April, only 2 months ago, EPA paid another firm $35,000 to study certain matters and prepare a "summary report." The same firm was paid an extra $10,000 to take the same study and prepare an "executive summary" of their own study.

A problem that should concern all policy makers and those interested in receiving an objective analysis from the Federal Government involves the use of consultants to prepare official Government reports. The 1986 Superfund reauthorization, for example, required an annual report so that the Congress would know how EPA was doing in implementing the legislation. The EPA promptly awarded a $260,802 contract to a consulting firm to write the annual report, complete with graphs, so that EPA could give it to Congress. Congress has asked EPA to tell it what it has been doing, and EPA had to hire a private consultant to do the job.

On the personnel side, OPM has responsibility for the appointment, as opposed to the procurement, of individual consultants. Despite a GAO report issued in March 1987 that revealed numerous shortcomings in the use of consultants and experts at one agency, OPM insists that there are few, if any, problems with so-called appointed consultants.

In short, the same kinds of problems we found in the early 1980s still exist today. These problems are exacerbated because today there is no enforcement to deal with these abuses. Worse, there is no will. There is no will to track, there is no will to monitor, and certainly there is no will to justify whether or not these services are needed.

Even our President, President Reagan, who on February 28, 1984, approved three very comprehensive recommendations to correct these problems, was unable to motivate his own administration to take prompt and effective action.

For example, a memorandum from the President, dated March 13, 1984, and signed "RR," states: "Direct the Inspectors General as coordinated by the President's Council on Integrity and Efficiency to perform spot checks and audits of the various agency controls of consulting services."

We will show today that those "spot checks" are not taking place. We will also demonstrate today without question that the consulting industry is running rampant and that we are spending over $25 billion a year of the taxpayers' money in the private sector for advice and consulting services.

Senator Sasser was not able to attend today's hearing but he has as statement that he would like to appear in the hearing record.

[The statement referred to follows:]

OPENING STATEMENT OF SENATOR SASSER

I would like to commend my friend, Senator David Pryor, for conducting this hearing today to draw attention to the Federal government's use of consulting services.

In our ongoing battle to reduce the Federal deficit, we cannot afford to overlook the expensive, indeed almost unaffordable price the United States government often pays for consultants.

As we will hear today, while there have been several attempts to regulate and control this proliferation of outside consultant work, much of this contracting continues to go unchecked. It is clear to members of the panel that there must be even greater accountability.

This is not to say, however, that all government contracting with consultants is either unnecessary or wasteful. Consultants can provide expertise that Federal agencies may not be able to afford, obtain, or need on a permanent basis. Furthermore, these consultants can often provide a more balanced and objective approach in problem-solving.

But what remains that is disturbing is that the bottom line is written in invisible ink. As the General Accounting Office reports here today, government-wide information on the use and cost of consulting services is still being significantly understated because of varying agency interpretations of what constitutes consulting services and reporting system limitations.

For instance, the GAO states that in 1987 the GSA's Federal Procurement Data System (FDPS) reported consulting services obligations of $245 million, while under the criteria established by the President's Cabinet Council on Management and Administration these costs were approximately around $4 billion. Moreover, according to the Office of Personnel Management, preliminary costs for consultant appointments were $31 million for the same year.

Today, the Office of Management and Budget tells us that by using the categories for consultant services that were recommended by the President's Cabinet Council on Management and Administration, the contract dollars range from about $12 billion in FY79 to roughly $26 billion in FY87. However, OMB is unsure of the accuracy of these figures.

Another disturbing aspect of this process is that only contracts of more than $25,000 are individually report by procurement category and entered into the FPDS. Actions of $25,000 and under are not reported by procurement agency but are instead reported on a consolidated agency statement and entered into the system. This makes it virtually impossible to identify consulting services within FPDS for any contract actions of $25,000 or less.

In closing, I would again like to commend Senator Pryor for focusing on this abuse of Federal contract dollars. It is my hope that the testimony we hear in this Subcommittee hearing today will enabled us to more adequately identify methods to ensure the accountability of this process in the future.

Senator PRYOR. Our first witness today is Mr. Bernard Ungar, the Associate Director of the General Government Division of the GAO, the General Accounting Office.

Mr. Ungar, we appreciate your appearance and look forward to your testimony. I believe you have two associates with you, Mr. Ungar. You may introduce them if you would like.

TESTIMONY OF BERNARD L. UNGAR, ASSOCIATE DIRECTOR, GENERAL GOVERNMENT DIVISION, GENERAL ACCOUNTING OFFICE,[1] ACCOMPANIED BY TERRY L. DRAVER, EVALUATOR, AND WILLIAM BOSHER, EVALUATOR

Mr. UNGAR. Mr. Chairman, on my right is Bill Bosher, an evaluator in our General Government Division, and on my left is Terry Draver, also an evaluator. Both of these individuals were among our key staff working on this assignment. They would be happy to help answer questions when I complete my summary.

[1] See p. 39 for Mr. Ungar's prepared statement.

Mr. Chairman, I am pleased to be here today to discuss a review we are doing at your request on the Federal Government's use of consultants. Since 1961 we have issued over 40 reports and testified before Congress on numerous occasions on consulting services in the Government. Consultants can play a valuable role and the Government can benefit from the services and advice they provide. However, we have also found that the Government's use of consultants has been vulnerable to abuse and improprieties, largely due to incomplete reporting on the use of consultants and limited monitoring of agency compliance with rules and requirements concerning the use of consultants.

You asked us to evaluate the issues and problems relating to the Government's use of consultants. Our current work has focused on the nature and extent of monitoring and reporting on agencies' use of consultants. Although our current work has not addressed the propriety of the Government's use of consulting services, our past work has addressed this issue and appendix one to our statement contains a summary of our recent work in the area.

Consulting services are used by Federal agencies for a variety of reasons. Consultants can provide expertise that agencies may not be able to afford, cannot get, or may not need on a permanent basis. In addition, they can enable agencies to keep up-to-date in various fields and to obtain a variety of viewpoints from knowledgeable people having differing perspectives.

Data on the use and cost of consultants hired under contracts are significantly understated. For example, the Federal Procurement Data System reported consulting services contract obligations of $245 million for fiscal year 1987. However, on the basis of criteria established by the President's Council on Management and Administration, we estimate these costs to be substantially higher.

In 1984, the President's Cabinet Council on Management and Administration reported that estimates of the cost of consulting services could not be relied upon because of the vague definition. The Council recommended that OMB revise and broaden the definition of consulting services to include a wide range of advisory and assistance activities as identified by specific procurement categories in the Federal Procurement Data System, such as management and professional services, special studies and analyses, and technical assistance.

The Cabinet Council identified four procurement categories in the Federal Procurement Data System that it believed were exclusively for consulting services contracts, and seven others that could include consulting services. Using the Cabinet Council's criteria, we estimated that for fiscal year 1987, reported obligations under the first four categories would have totaled $4 billion. The other seven categories included total reported obligations of $16 billion, an undetermined amount of which could be for consulting services. These estimates do not take into consideration certain reporting systems' limitations that I will discuss shortly.

Our review at the Small Business Administration showed how definitional problems can affect the reporting of consultants services. Contracting officials at SBA said that they applied a very narrow interpretation of the 1980 OMB Circular A-120 in determining what constitutes a consulting service for the Federal Pro-

curement Data System reporting purposes. They said SBA had no obligations for consulting services contracts in fiscal year 1987. They also said that the contract officer's determinations of what constituted consulting services were not subjected to supervisory review.

On the basis of our review of seven SBA contracts totalling $815,000 awarded in fiscal years 1987 and 1988, for services such as research studies, we identified five contracts for $436,000 that we believe should have been classified as consulting services.

For example, one of these contracts was for $42,000 to obtain information on the impact of telephone deregulation on small business. According to the responsible contracting officer, this contract was not considered to be for consulting services because she applied a narrow interpretation of what constituted consulting services. Thus, in her judgement, the contract did not meet the criteria for consulting services.

Since our initial discussions with SBA, the contracting officer told us SBA applied a broader interpretation of consulting services for two recently awarded contracts. Our review disclosed three limitations in the Federal Procurement Data System and the Civilian Personnel Reporting System that contribute to the understating of consultant information. First, only contracts over $25,000 are individually reported by procurement category and entered into the Federal Procurement Data System. This makes it impossible to identify consulting services within the Federal Procurement Data System for any contract actions of $25,000 or less.

Second, understating also occurs if the consulting services do not form the predominant or principal part of contract costs.

Third, agencies report to OPM the number of consultant appointments made throughout a reporting period. However, according to an OPM official, OPM reports information on individuals with consultant appointments only as of the last day of the period and does not report on those made and terminated during the reporting period.

OMB's revised Circular A-120, should help clarify some of the ambiguity surrounding the consulting services definition. However, it is too early to tell to what extent improved reporting will result, although it is clear that it will not totally resolve the reporting problems to consulting services for a number of reasons.

The revised Circular does not address the reporting system limitations we have discussed. This is the $25,000 and under category and those cases where consulting services is only a portion and not the predominant portion of a contract. OMB's January 1988 revision of Circular A-120 does not completely cover all major procurement categories that according to the Cabinet Council could potentially involve consulting services. This leaves the agencies with a considerable degree of discretion in identifying consulting services contracts and under-reporting could continue.

It is unclear at this point to what extent agencies will correctly implement the revised Circular. At SBA, for example, we found that the agencies were not yet implementing the new Circular.

As requested by the Subcommittee, we concentrated our preliminary work on monitoring done by 19 statutory Inspectors General. Each Inspector General, comparable agency official, or agency head

or designee is required by 31 U.S.C. 1114, enacted in 1982, to submit to Congress each year as part of the agency's budget justification an evaluation on consulting services. The evaluation is to consider the agency's progress in establishing effective management controls in improving the accuracy and completeness of the information provided to the Federal Procurement Data System on contracts for consulting services.

Of the 10 agencies where evaluations are not being made, six Inspectors General said they thought the law requiring evaluations had been repealed. We found, however, that the law is still in effect, and a copy of our opinion is in appendix two to our statement.

Of the other four, two said that their agencies have substantially established proper controls and that they did not believe further evaluations were need. The other two did not provide any explanation.

Mr. Chairman, this concludes my summary. We would be pleased to answer any questions you may have.

Senator PRYOR. Mr. Ungar, thank you.

Let me ask you several questions, if I may. I'm trying to get an update. It has been about 8 years since we visited this subject. This is a revisit of the whole issue.

In 1980, GAO did a study entitled "Controls Over Consulting Services Contracts at Federal Agencies Need Tightening." You looked at six Federal agencies, I believe, picked at random, and here are some of you conclusions.

Little or no consideration was given to in-house capability before consulting services contracts were awarded. Several contracts resulted from unsolicited proposals. Is this still a problem 8 years later?

Mr. UNGAR. Mr. Chairman, we have not really looked into that yet as part of our ongoing review. That is something we could look into as our review progresses. But I do not think we are in a position at this time to give you any specific comments on that.

Senator PRYOR. All right. Let me ask about an issue relating to former agency employees. You held on March 20, 1980, that extensive sole-source awards were paid for consulting services. Several of these awards were made to former agency employees.

Does this problem still exist, to the best of your knowledge, or have you had a chance to update this?

Mr. UNGAR. Mr. Chairman, we have not updated it. We do understand that there are former employees who do serve as consultants but we are not in a position to give you a very specific or definitive information on that subject at this point.

Senator PRYOR. All right. Is anyone, anywhere in our whole Federal Government system looking at that issue? Does a red flag go up on a computer? Does the bell go off? Or is this whole issue of an agency former employee doing the consulting work for the job that he left still a possibility?

Mr. UNGAR. Well, Mr. Chairman, it is a possibility. Again, we have a mixed situation. We know that at least some of the Inspectors General are looking at the issue; how extensively, you know, we have not gotten into yet. Of course, in other agencies we know

that there is not much activity at all in the way of monitoring. So there is an opening there for this to happen.

Senator PRYOR. You have mentioned the Inspectors General. Now, most of the Inspectors General—I believe 10 of the 16—say that the law has been repealed and they do not feel an obligation to look at these consulting issues, is this correct?

Mr. UNGAR. Mr. Chairman, just a point of clarification. I believe it was six Inspectors General who cited the fact that they felt the law had been repealed. The others did have other circumstances. I think two did not give a reason. One said they had looked at it a few times and did not find many problems; they found that there was very little activity. Of course, there was little reporting.

Senator PRYOR. $25 billion is a lot of activity.

Mr. UNGAR. Right. That is correct. Of course, this was at one agency. So, basically, there is not a great deal that we saw that was going on in the area of monitoring.

Senator PRYOR. Your first report was March 20, 1980. Then GAO came back on June 5, 1980, and here is a finding: Reasonableness of fees paid for consulting services was questionable.

Have we looked into this in the past few years?

Mr. UNGAR. I do not believe we have, Mr. Chairman. No, sir.

Senator PRYOR. All right. You found on June 5, 1980, consulting services were used to perform work that should have been performed by regular Government employees. Is that being monitored by anyone in the Government?

Mr. UNGAR. Not to my knowledge, sir. Mr. Draver, do you have anything on that?

Mr. DRAVER. I think we issued—one of our reports highlighted something to that effect, Mr. Chairman—but it was limited to several agencies.

Senator PRYOR. The third finding you made in the June 5, 1980, report, Federal repositories were not being searched before new consultant studies were being initiated and many completed studies were not submitted to the repositories.

Does this still exist, to the best of your knowledge?

Mr. UNGAR. Mr. Chairman, again, we have not looked at that specifically recently. I did note in reviewing the Inspector General's report over at the Department of Labor that was done of a study a few years ago that they found this situation to exist at the Department of Labor from the standpoint that there was not a central file in the Department of the studies that had been done there so that people who are contemplating retaining a consultant would know what has been done in the past.

Now, that was a couple of years ago at Labor. I'm not quite sure what the current situation is.

Senator PRYOR. Let's move on to March 31, 1981, "Controls Over DOD's Management Support Services Contract Needs Strengthening," again, a GAO report of that date. You found that much of the work was performed by former Defense Department employees. Continuous renewal of contracts occurred. Consultant services were of questionable need and use. Sole-source awards were over used. Contract modifications were extensive.

Is this still going on today in the Department of Defense?

Mr. UNGAR. Again, sir, I do not think we have looked at that recently.

Mr. BOSHER. Mr. Chairman, on a Government-wide basis the statistics reported by the Federal Procurement Data System still indicate a substantial amount of non-competitive procurements for contracts approximately 43 percent in fiscal year 1987, while not representing DOD particularly, this is the Government as a whole.

And regarding the second point on whether an extensive number of modifications are being made, in fiscal year 1987, 69 percent of the total dollars reported were for modifications as opposed to original reporting.

Senator PRYOR. Excuse me. Would you give me that figure again? Sixty-nine percent of what?

Mr. BOSHER. Approximately 69 percent of the total amounts reported by the Federal Procurement Data System [FPDS] for new contract actions or modifications were for modifications as opposed to new contracts.

Senator PRYOR. So what we have, we are signing a whole host of contracts and then 69 percent of those contracts are being modified or added to, is that correct?

Mr. BOSHER. Sir, 69 percent of the total dollars reported for new contract actions or modifications were for modifications.

Senator PRYOR. Does the FPDS have to report the modifications?

Mr. BOSHER. They break it out separately, yes, sir.

Senator PRYOR. We have several of the GAO reports, which, frankly, I find to be outstanding, all the way up to March, I believe March 1987, is the most recent that I can find, up until your recent report to the Subcommittee.

These are issues I have underlined that, I hope, the General Accounting Office will assist us in finding the answers to as we proceed in our work during the coming weeks and months and, perhaps, even years ahead.

Now, another question. We have talked about some of the problems and some of the problems that you started talking about in 1980 and all the way up until 1987. These problems, to me, appear to still be very present and very pervasive.

Do you have any suggestions as to what we can do? For example, in 1982 I introduced legislation to have all of the private advice and consulting dollars earmarked, let's say, in a line item appropriation. What's wrong with that concept?

Mr. UNGAR. Mr. Chairman, we have not looked at that recently. We could probably do so over the next few months. One problem I see would be the definitional problem. Even if you had a line item, the way the agencies are interpreting consulting services right now there probably would not be very much that would come under it. Now, if they start broadening their definition and practice you would probably have more information.

Another situation is that based on a recommendation we had made earlier, back in the early 1980's Congress did enact legislation requiring agencies to include in their budget justifications to the Congress or to the Appropriations Committees, information on the proposed use of consultants.

We have not done a Government-wide survey, but we know from the surveys that we have done that not all agencies are actually providing that information.

Senator PRYOR. They are underreporting though, if they provide the information, generally.

Mr. UNGAR. That is correct, sir. Yes, that is right.

Senator PRYOR. For example, let me and—I am not obsessed with EPA—they are one of the agencies that we are just looking at, as we are looking at all the agencies. We tried to get from EPA the number of consulting contracts that we considered new in the last fiscal year. Here is their list.

Now, that little list, by the way, I think is $17 million. I think some of those are modifications. That is what they supplied.

However, we looked further to EPA and here are the actual consulting contracts that we find, and we can see that this allocation to consultants is not $17 million, not one page with about four sentences. But we see here about $117 million from EPA for consulting services. So we see, one, a definitional problem, and two, an under-reporting situation that is, frankly, sort of staggering, in my own opinion.

Now, one of the several issues that I have stated before, and I do think that we need to keep monitoring, is the issue of former employees of the agencies and who they are consulting with. I think that that is very critical. I think it goes to the issue of conflicts of interest, and I hope that we will be able, with the help of GAO and this Subcommittee, to ascertain what percentage of consulting contracts were extended by modification and also the former Government employees involved.

Now, I need a civics lesson. I took 9th grade civics and really have not advanced much past that. So, I need a civics lesson. Let's say in the budget process—when we have a budget process and the budget resolution is there and we vote up or down on that budget resolution—in that vote, as U.S. Senators, do we have any idea as to the number of contracts we are voting for or how many dollars we are voting for that will be used for consultants and private advice from outside the Government?

Mr. UNGAR. Not precisely, Mr. Chairman. The information in the budget—there is information on contracts but it is not identified generally on a line-by-line basis, so you would not know precisely in most cases how many consulting service contracts were included in the total amount. You would see a total amount for each agency for contracts or other services but, again, you would not know precisely, you know, how many of those are consultant services contracts, based on the information that you would generally get from the agencies.

Senator PRYOR. Won't we come back to the definition problem? That is one of the problems.

Mr. UNGAR. That is one problem.

Senator PRYOR. Let's look at an overall problem. Let's just say, at random, we have the Department of Transportation Appropriation bill for fiscal year 1988. So Senator Pryor and Senator Stevens go to the floor and maybe we vote for it or against it.

Is there anywhere in this 71-page Appropriations bill for the Department of Transportation that we can ascertain how many dol-

lars are going to be contracted for private studies, private research, consulting, or advising the Federal Government from the private sector?

Mr. UNGAR. Mr. Chairman, I have not seen that specific bill. Again, in general, I do not think you would be able to find that. But maybe Mr. Draver could tell you.

Mr. DRAVER. I have not seen it either and we have not gotten that far, but I would seriously doubt it. Because even in some of the congressional budget submissions, Mr. Chairman, that we have looked at, they are not in there and I would seriously doubt it would be in the resolution itself.

Senator PRYOR. Well, there is bound to be something in here. Does it say "for professional services" or is there some buzz word here that I cannot find?

Mr. DRAVER. The only thing we could comment on is in each congressional budget submission that is submitted to the Appropriations subcommittees, is the object classification number 25, "other services," which consulting services would fall under.

With respect to consultant appointments, those fall under the object classification 11.3, "other than full time permanent." Now, that is in the congressional budget submission, not necessarily in the President's budget. And it depends on the agency, really, in terms of whether or not they have specifically submitted budget information on consulting services, and we have done a very limited review of this. We found, for example, the Department of Labor regularly does submit such information to the Congress.

Senator PRYOR. I find it very frustrating to know that we are spending $25 billion and OMB, I think, has said that figure is about correct. I find it very frustrating to know we can spend $25 billion and yet not be able to find it in the Appropriation bill.

I think that is incredible, and this is why I have not only in the past but will in the future support line item appropriations for these services, not only in the authorization but also Appropriations bills and, in addition, try to devise some form to improve the definition. But more than that—I know this is simplistic—but to help us trace what is happening—maybe when the Government issues checks for the services performed by the consultant or the private contractor, they could be polka dot checks, green and white, or pink and blue, or perhaps they could be purple checks, or something to identify them so we could trace exactly how many dollars we are spending in this area.

One of my final questions to GAO today is this. I see our friend Senator Stevens here and I am going to call on him momentarily.

But throughout some years, almost a decade now, you have looked and attempted to monitor to the best of your ability and within the mandate of the General Accounting Office the issue of private contracting and consultants. Now, do you sense out there in our Government there is a will to really do this, to really monitor these contracts, and to really ask why these contracts are needed in the first place? Or to ask the first question, can these same services be performed in-house?

Are you finding anything like that out there? Is anyone asking any questions?

Mr. UNGAR. Mr. Chairman, not that we can see. There does not seem to be a real strong commitment by the various agencies to address this issue. And as evidence of that I guess I would look at two things in particular—maybe three. One, the small number of services that are reported as contractual services by the agencies; two, the apparent activity or non-activity by the agencies to include in their budget justifications the information that the law requires on proposed use of consultants; and three, the large number of Inspectors General who are not monitoring the use of consultant services.

Senator PRYOR. Do you know why it has taken 8 years for OMB to revise their Circular?

Mr. UNGAR. Mr. Chairman, I do not know exactly why. I guess there are two things I could point to, but maybe OMB is in a better position to answer that question. One would be, of course, it is a difficult area.

Senator PRYOR. I am going to ask my friend Mr. Wright that latter.

Mr. UNGAR. I am sure. One, it is a difficult area, and two, the Cabinet Council did not complete its study until 1984. So there was a period of time there that they had to wait since our 1980 recommendation.

Senator PRYOR. So they completed their study in 1984, made the recommendation that the Circular be revised and modified and still 4 years later, January of this year, we finally see that taking place.

Mr. UNGAR. That is correct. That is a bit of a long time.

Senator PRYOR. That is some $100 billion worth of consulting contracts later in that 4-year period, if we are spending at the rate of $25 billion a year, which it appears that we are.

Have you found that OMB has instructed the Inspectors General who feel they are not called upon by 31 U.S.C. section 1114—do you find that they are now on board and are going to do something about this? How did they know that they were supposed to do anything about it and how did some decide that they were not covered by the mandate?

Mr. UNGAR. Mr. Chairman, I do not believe that OMB knew all of them were not performing the required evaluations. Again, I think that Mr. Wright would be in a better position to answer that.

I think, though, when we inquired, you know, we identified several that were not doing that. And of course we immediately brought that to OMB's attention and I think they said that they would certainly, you know, try to rectify that. I do not know whether Mr. Draver has anything to add to that.

Mr. DRAVER. No, I do not.

Senator PRYOR. Are you finding that each individual agency throughout the Federal Government sort of has its own definition of what a consultant is or what an advisory opinion is?

Mr. UNGAR. Mr. Chairman, at least the agencies we visited, I do not know if they had their own definition in writing. I think they each had their own interpretations of what would be a consulting service. There was a common theme that ran, however, and that was that no matter what their definition was, it was always much narrower than the one the Cabinet Council would certainly say should be used.

Senator PRYOR. In your March 1987 report on some of the contracting activities at the Department of Health and Human Services (HHS), I think you found a consulting contract there would cost the taxpayers $148,000 for salary and expenses for an individual or individuals for 18 months. During a part of this time sandwiched between the two appointments as a consultant, this same individual was awarded a contract to write speeches for $1,500 each for the Secretary of HHS.

Is this common?

Mr. UNGAR. Mr. Chairman, I cannot say whether it was common or not.

Senator PRYOR. We found in the early 1980s many of the people who came up to give testimony, that their testimony was being prepared by consultants and consulting firms.

Is this still true?

Mr. UNGAR. Sir, I do not know that we have looked at that specifically.

Senator PRYOR. You did not hire a consulting firm today to help you with your testimony, did you? [Laughter.]

Mr. UNGAR. Right. A consultant firm on consultants. Mr. Chairman, I do not think we can comment on that, can we?

Mr. BOSHER. No. We are not really in a position to address any further improprieties in that area without examining similar appointments.

Senator PRYOR. Well, I will just say this. It is my own personal conclusion that there is only one agency of the U.S. Government today that cares or that is doing anything about monitoring all of these contracts. There is only one, and that is the General Accounting Office. I salute you, and I thank you for helping this Subcommittee.

Senator Stevens.

Senator STEVENS. Well, that is a nice endorsement.

Do you hire consultants at GAO?

Mr. UNGAR. Yes, we do, Senator Stevens.

Senator STEVENS. I seem to remember that your budget it is sort of confused, too. I think it is a matter of definition as to what is a consultant. When you have computer services, aren't they listed under "other services" in your budget? And it looks like consultant services, isn't that right?

Mr. UNGAR. Senator Stevens, I believe that certain ADP services have been excluded, at least by the Cabinet Council and I think——

Senator STEVENS. They have now, but in the budget we have now before us, they would be listed as computer services and would still be included in consultant services.

Mr. UNGAR. Yes, depending on what they are, yes, sir.

Senator STEVENS. There has not been a generic list. I have worked on this in the past—I remember former Senator Mack Mattingly of Georgia worked for 3 years trying to get some semblance of continuity and uniformity out of the concept of consultant services. But the more we dug into it the more we realized that if we had a line item on consultants, we would have to have a line item on a lot of other things in order to be specific. And the question is, how many line items can you run in every budget.

But I do think we began to understand the concept of consultants a little bit more, Mr. Chairman, and I think we should continue to do it.

Let's take, for instance, the Chairman's comment about the $1,500 for a speech. That is a fairly expensive speech, unless the alternative is to hire a speech writer at $60,000 and have him write two speeches a year. Now, have you ever looked into that as the alternative for preparing testimony and preparing speeches?

Mr. UNGAR. Senator Stevens, we firmly believe that the Government agencies do need consultants and experts and they should be able to get them quickly and efficiently when they need to, and they ought to be providing services that are necessary. I think we fully recognize and would support the agencies' need, including our own, to get consultants.

So I do not think we are taking a position that the Government should not get consultants and perhaps, you know, there would be a legitimate need for a consultant to write a speech occasionally. I do not think we are saying that at all. I think it is a question of the balance between providing agencies flexibility that would enable them to get consultants for legitimate purposes quickly and efficiently versus the protection against possible abuse or improper use of consultants, and that is the balance that we are trying to look for.

Senator STEVENS. I agree with that. Now we are getting fairly subjective though, and that is the reason it is so hard to get the whole Government to agree on a definition of what is a consultant expenditure. Do you believe we are at that point now that we could all agree what is an expenditure for a consultant? Are we going to exclude any kind of computer services? Any kind of other hardware services? Or is it just brain power consulting we are going to deal with?

Do you think we are there yet?

Mr. UNGAR. Well, I do not think we are totally there, Senator Stevens. I think that we are further ahead now than we were a few years ago. I think the new A-120 does help clarify the definition. There is still a very, very broad area—according to our estimates based on the Cabinet Council, $4 to $20 billion—where a lot of judgment can be applied and I do not think you will ever get to the point where you can push a button on a computer and the computer will spit out what the precise amount is.

There is always going to be this judgment and I think there is at least some basis to say that more contracts should be classified as consulting services as currently or previously were, based on the information in the Cabinet Council report and OMB's revised Circular A-120.

So, again, I do not think we will ever be to the point where we will be perfect, but I think there is a lot of room for improvement based on the criteria that currently exists.

Senator STEVENS. Well, it seems to me that our goal ought to be to try and define a system of centralized review of consulting service requests in each agency. We are trying to do that here in the Senate through the Rules Committee. I am not sure we are being too successful.

But you believe that this Circular gives sufficient control within an agency for review on the determination of what is a consultant's service request and places responsibility for the decision to hire a consultant squarely in one place in each agency?

Mr. UNGAR. Well, Senator Stevens, I think it helps. I think there are still some problems with the A–120 in the sense that there are some limitations that it does not cover. For example, contracts of $25,000 and less would not be specially reported as consulting service contracts. And also, those contracts that are for a multiple array of products or services, only some of which are for consulting services, would not be identified through the reporting system as laid out by the Circular.

So I do not think it would give you a complete accounting, even in those cases where there is agreement that there are consulting services being provided. It does provide an array of controls and reviews that would help identify proposed consulting service contracts and make sure they are appropriately reviewed for justifications and propriety and so forth, although it has only been out a few months and like I indicated earlier, we do not know to what extent it has been implemented.

We have been to two agencies so far that really have not begun yet to even implement the new A–120. So it is kind of hard to tell what its overall impact is going to be. I think our assessment is it should help if it is properly implemented, and that remains to be seen.

Do you have anything to add to that, Bill?

Mr. BOSHER. Well, while expanding the original definition of what constitutes advisory and assistant services, the Circular did elaborate and provide specific examples as to four of the categories specifically identified by the Cabinet Council in 1984. However, at that time the Council also identified seven other categories which could constitute a significant portion of consulting services, and it does not appear that these additional seven categories are addressed in detail in the revised Circular. And it is this omission which appears to leave a considerable amount of latitude on the part of contracting officers when making the determination as to how to classify the contract.

Senator STEVENS. Well, what is GAO's recommendation for what Congress can do to tighten this up?

Mr. UNGAR. Senator Stevens, right now I think our recommendation would be not to take immediate legislative action but let's see what happens with the laws that are already on the books. There are some requirements already there that if implemented should certainly help. One of those is for the agencies to provide this information on proposed use of consulting services in their budget justifications. This would give you information at least on what they are proposing to do, if they specifically complied with the legislation.

The second part of that would be to make sure that the IGs all do what they are required to do in terms of the annual evaluations on the accuracy of reporting and on the management controls that are in place or are supposed to be in place.

Another action would be for possibly OMB to ask the agencies through their efforts under the Federal Managers Financial Integ-

rity Act to make sure that they adequately assess, or at least assess to some extent each year the effectiveness of the controls that the agencies have over the use of experts and consultants as a part of their annual evaluation.

Senator STEVENS. Do you think we should limit the amount of funds that could be expended under the $25,000 exemption category?

Mr. UNGAR. I am not quite sure, Senator Stevens, how that would work since they are not specifically reported. I guess the agencies could certainly start to report individually. I mean, if you required the agencies to report them, then you would at least have a handle on them and you could impose a restriction. Again, how the definitional situation would work, if the agencies continue to narrowly interpret what a consulting service contract is, it may have limited effect. But at least if you had the agencies reporting individually on those contracts under $25,000 and the Inspectors General monitoring it, over time you should have a better feel for how much money is involved and what types of services are being provided and looking at the propriety of them and the justification and so forth.

Senator STEVENS. Well, my feeling is that in times when we make specific reductions in expenditures for a department or an agency through the appropriations process, we find out to our regret that in complying with those specific reductions, the agencies simply use the monies from the consulting side and continue the same function.

Have you found that?

Mr. UNGAR. That has been used as a justification, Senator Stevens, in some of the contracts we looked at over the past in terms of not having enough Government employees to perform a certain function, therefore, the agencies will go out and contract. So we have seen that at least in the past being used as a reason. Although, again, I do not know to what extent that is happening today.

Senator STEVENS. Thank you very much, Mr. Chairman.

Senator PRYOR. Thank you, Senator Stevens.

Mr. Ungar, I am going to release you in just a moment. But first, I could not help but perk up when you mentioned, let's let the present law stay on board a little bit and see what we can do and see what the IGs are going to do.

Senator Stevens, before you arrived today I read a letter from the Deputy Inspector General, U.S. Department of Interior. I will reread a couple of sentences: "The Department of the Interior's Office of Inspector General has not performed an audit of Interior's use of consultants in the last five years. However, we plan to begin a limited scope review on the use of consulting services within our Department on or about July 6, 1988."

Here is a response from the Department of Agriculture, from the Inspector General: "To my knowledge"—this is written to me—"no Government-wide study, audit, survey or report on this study has ever been conducted or published by the PCIE. In addition, the audit committee does not presently have any projects in process."

So, what I see there is a lack of will by the Inspectors General even after the President of the United States mandated them to go

after this and the Congress mandated in 31 U.S.C. section 1114—I think that is it—and so I wonder about your idea of let's see what happens and let's do the best we can with what we have. I do not think that has enough teeth in it, and I do not have enough confidence in the agencies out there to police themselves.

In fact, and this is my second and almost closing point, in working together to not only define by definition the use of and what consultants really are but also to make that definition broader and more restrictive, I hope we will pay particular attention to something that has worried me for a decade—and that is the unsolicited proposals.

One, we have no competition; two, it is unsolicited. I would say, Mr. Ungar, this is my prediction. I think that we are going to see that about 60 percent of the Government consulting contracts were unsolicited.

I just noticed Sunday in the Washington Post, Senator Stevens—and I may attend this because I am in the wrong business—here we have an ad, Key Bridge Marriott, 9 to 5, June 18, consulting practice. If you want to start a consulting practice. The average fee is $903 a day. That is what you are going to earn. One session is successful telephone prospecting. How to find your client's hot bucks.

Here is a good one: "When to know not to use a résumé." I like that. And then, how to write and negotiate fixed fee performance-cost-plus-retainer contracts.

In fact, there are about 10 of these so-called job openings out there in the consulting business that basically zero in on the Government's need for consultants and people who have had experience with the Government or selling to the Air Force or whatever. I will just read a couple of these. And SDI, by the way, is getting a lot. Here is one for $2.4 million, Analytic Services of Arlington. That is from the Pentagon—$2.4 million to study kinetic energy directions. Here is Aries Corp., $544,000. These are probably noncompetitive, sole-source. I bet they are.

Here is a $14 million contract with the Pentagon, Defense Supply Service, to provide studies and analysis in support of the Secretary's Defense Research and Development Center program. Here is another $5.3 million to Logistics Management Institute of Bethesda.

But here is one that I really like.

Senator STEVENS. But Mr. Chairman, all of those, to my knowledge, are in reference to classified items that are pretty difficult to specify.

Senator PRYOR. I will bet you a Coke, Senator Stevens, that they were sole-source.

Senator STEVENS. They may well be, but I think it is a lot cheaper than trying to put those people on the Government payroll and then suddenly find a way to end that portion of that agency. The whole concept of those consultants is so that they will not become permanent parts of the Department of Defense.

Senator PRYOR. Well, here is another good one: TEM Associates, Inc., of Washington, has just won a $154,013 contract from the U.S. Air Force to provide for the development of an Air Force Accomplishments Book.

Here is $149,000 the Lavin Associates, Inc., Washington, $149,465 contract, the Department of Education, to provide special technical and support analysis of postsecondary education; once again, in all probability, in my opinion, these are sole-source and maybe even unsolicited.

These are some of the problems that we had in 1980. They are some of the problems we have in 1988.

I do appreciate very much your support and help and your testimony this morning.

Mr. UNGAR. Thank you. We will be looking forward to working with you as our review progresses.

Senator PRYOR. Our next witness is Mr. Joseph R. Wright, Deputy Director, Office of Management and Budget. Mr. Wright I believe is accompanied by Mr. Allan Burman, Deputy Administrator and Acting Administrator, Office of Federal Procurement Policy.

We thank both of you gentlemen for coming. Mr. Wright, we appreciate your appearance today, and we look forward to your statement.

TESTIMONY OF JOSEPH R. WRIGHT, JR., DEPUTY DIRECTOR, OFFICE OF MANAGEMENT AND BUDGET, ACCOMPANIED BY ALLAN V. BURMAN, DEPUTY ADMINISTRATOR AND ACTING ADMINISTRATOR, OFFICE OF FEDERAL PROCUREMENT POLICY

Mr. WRIGHT. Thank you, Mr. Chairman. If I may just submit my testimony for the record[1] and briefly highlight some of the points that I think are worth mentioning.

Senator PRYOR. Thank you, Mr. Wright.

Mr. WRIGHT. Good morning, Mr. Stevens.

Senator STEVENS. Good morning, Mr. Wright.

Mr. WRIGHT. First of all, I would like to say, Mr. Chairman, that the statement that was provided for the record was not prepared by a consultant.

Senator PRYOR. I was going to ask that.

Mr. WRIGHT. Well, I knew you were going to so I decided to say it up front.

Senator PRYOR. I think OMB came up here a few years back and their statement was in fact prepared by a consultant. But anyway, I am glad yours is not.

Mr. WRIGHT. Right. There have been many concerns about the use of consultant services over the years, and OMB has tried to improve this situation by setting out policies in this area back in the late 1970s and, as you have stated before, this last January we issued the update of OMB Circular No. A-120, which covers this area.

To my statement I did attach a brief summary of the evolution of that Circular, and I might just answer one of the questions, Mr. Chairman, that you had asked as to what took so long in order for us to get to that point.

There are a couple of things that did happen during that process. One is, in 1984, when the Cabinet Council on Management and Ad-

[1] See p. 64.

ministration came up with their recommendations. One of the recommendations of the Cabinet Council was to expand the areas that are covered by A-120. The biggest area of concern, naturally, was the Defense Department simply because of the dollars. That is the big horse in the parade. And the Defense Department and the Office of Management and Budget were going back and forth in terms of those definitions.

Also at that time there was the Authorization Act of 1986 for Defense, Public Law 99-145, which required the Secretary of Defense to establish an accounting system to control expenditures for contracted advisory and assistance services.

Senator PRYOR. Now, what year was that?

Mr. WRIGHT. This was the 1986 Defense Authorization Act. And that went on during the years of 1985 and 1986. Our draft Circular was published in the Federal Register on June 25, 1987, for comments. And then we went through the process, put all the comments in.

So the only thing I wanted to put to bed, Mr. Chairman, was this: it was not as if the CCMA did their study and then we did nothing on it. It took too long. I am not going to disagree with that at all. It took too long, but during that period of time, also, the Congress was deliberating as to what requirements they were going to place on the Defense Department. And I think if you want to go into that any more I will get into that specifically.

Senator STEVENS. There was also a rider on the appropriations bill at the same time, wasn't there? Limiting expenditures for consultant services. It was contrary to the authorization bill in terms of definition, as I recall.

Mr. WRIGHT. I think you are right, Senator, and there was also one in which there was a big disagreement as to what are the categories to be included; not only within the Cabinet Council but also in the reporting to the Congress.

Now, I want to get into this a little bit later, but let me tell you, Mr. Chairman, about one of the biggest problems we have. The Federal procurement data base has information on contracts in it. The budget has information on line items. As Senator Stevens mentioned earlier, if you try right now with the accounting systems that we have and the budgeting system at the present time to combine those to give you the information that you need—and, by the way, I do not disagree that you should not have it; you should, not only in this area but in a lot of the others—you will deluge this Congress and the Appropriation Committees with a combination of inaccurate proposals coming through the budget, the combined line items and account structure by contract. We can talk about that in a little bit but that is a major problem.

Now, since that time in the 1970's, we have found that there are a lot of problems. First of all, many of the agencies were not following a consistent approach in reporting funds for these activities into the Federal Procurement Data System.

Second, as you have mentioned before—and this is the reason the CCMA did their study—the numbers were seriously understated. Let me tell you why they were understated. The first guidelines that went out basically applied to consultants that were on individ-

ual contracts. These were individuals. They really were not contracts to corporations, consulting firms and all the rest of it.

That, plus expansion in some categories, is the main reason you see for the large increase. I believe the data base now and the guidelines now are much more reflective on what is actually going on out there. But, Mr. Chairman, I will tell you right now, it is not accurate because of the fact that you do have some contracts that, by the definition of the contract, are inflated because they have some non-consultant related dollars in that Federal procurement data base.

On the other hand, you are going to have some that are not going to be picked up because we do not have a cross tie between the data base and the budget. So what I am saying is: while the reporting is better than it was, I would not put a lot of faith in those numbers.

Senator PRYOR. Well, all right. The Federal agencies say they are spending $233 million on consultants. I know we have a definition problem. I am aware of that. We have been faced with it for 10 years. We are saying $23 billion on consultants in 1986, and $25.6 billion in 1987.

Whose figures are more nearly accurate? The Subcommittee's or the agencies'?

Mr. WRIGHT. The agencies' figures will be accurate for contracts for individuals as consultants. The Subcommittee's figures, which basically were developed by the Cabinet Council on Management and Administration, will be more accurate from the standpoint of consulting activity by corporations and individuals throughout the entire Government. They are two different worlds that we are talking about. The first group is a subset of the second group of numbers.

We also found, Mr. Chairman, that another problem was, as you mentioned, and correctly so, a very large number of contracts that were awarded on a noncompetitive basis.

Senator PRYOR. Now, I believe you are stating this, aren't you?

Mr. WRIGHT. I mean earlier in the hearing. The Chairman expressed a concern about that and I agree with it. That is all.

Senator PRYOR. Yes. And in fact, you back me up in that. You are saying 50 percent of consultant contracts were noncompetitive.

Mr. WRIGHT. You bet.

Senator PRYOR. All right. So we agree on that.

Mr. WRIGHT. Yes, sir. Now, let me give you some numbers that I have received since then and, again, I apologize for using the two different bases of numbers but that is what we have here during this hearing.

That $25.6 billion in fiscal year 1987 went through two stages of growth. In fiscal year 1979 that was about $12 billion. At that time, 34 percent were competitive. I am only talking about 1 out of 3 dollars. The number you have on $26 billion, you have 56-percent competitive. So you have to take a look at what has been happening across the board. I think it is still probably too low, but it is not as bad as it was. And most of that is being driven by Defense R&D, and we are going to have to get a breakout for the Subcommittee here.

But, Mr. Chairman, this is the problem with these numbers, just by using big totals. You have to look at the pieces and see what is going on. I am not so sure, as Senator Stevens mentioned, in Defense R&D, whether or not you want to throw some of that out for open competition.

But compared to where it was 9 years ago, as you mentioned, it is a pretty good increase. Again, it is not high enough. I think it should be more competitive.

On the smaller basis of the individual consultants, which is the $233 million to the $243 million, there is something wrong with the numbers. I will tell you that right now because the percent competitive on that one was about 50 percent in 1987. In 1986, it was 72 percent. So whenever you see something that goes up that high and then comes back down again in terms of a competitive percentage, something is wrong with the numbers.

Senator PRYOR. Joe, what about modifications to these contracts. Is that on the upswing?

Mr. WRIGHT. On modifications, of the $233 million—well, let me give you some numbers here. Of the $233 million, competitive modifications were $66 million; noncompetitive was $24 million in 1986. So that reflected a big upswing towards the competitive. But then it seems to drop back down again to the 50–50 percentage in 1987, and I just do not know what happened between 1986 and 1987.

Senator PRYOR. Mr. Wright, let me just mention this. Now, Senator Stevens and I are good friends and I am not going to disagree with him on one thing this morning, but he was talking about some of the very classified items in DOD and you have talked about DOD increases. I am not arguing right now with DOD. A lot of times I do.

Let me just run down a list of functions and agencies of Government. For example, the General Accounting Office, OMB, Congress, Federal Judiciary, USDA Extension Services, soil conservation and forestry, child nutrition, military construction, Coast Guard, FBI, CIA, drug enforcement, Customs, Centers for Disease Control, Fish and Wildlife, on and on—all of these do not add up. All of these functions and agencies and departments of Government, nothing to do with the Department of Defense, still do not spend as much or consume as many tax dollars as do the private consultants and contractors that we hire for advice in our Federal system of Government.

There are something like 20 or 30 agencies and departments here. We are spending more for private advice than we are spending for the real, what I call the gut functions of this Government. Now, that worries me.

Senator STEVENS. Mr. Chairman, I do not disagree with you. I would not want the record to indicate that I have a basic disagreement with what you are doing. But on the other hand, we might not agree on some of the reasons that that has come about. Take for instance, the National Environmental Policy Act. Where there are EIS prepared by the Forest Service, they hire people as consultants to go out and make the studies. And those people might be the same people hired by the Corps of Engineers to provide an EIS, or

hired by the Department of Agriculture to provide an EIS. They are in the business of writing EISs.

Now, we could hire people in each one of those agencies to write EISs, but the fact of the matter is that is what has happened. As we have required more and more reporting, we have had more and more professional people organized as consultants. There is one I am familiar with here on the East Coast that was organized in the basement of a friend of mine. It really was. I can remember when it was incorporated. He told me it was incorporated. It is now on a big board, and all they do is hire people all over the East Coast to perform consulting services for governments—not just the Federal Government, but the States and the local. You take those EIS statements, every single entity of Government has an environmental impact statement procedure.

Now, instead of everybody hiring people and going at it in that way, I think most of the governments have decided that is where they contract that out to consultants. And we have to analyze, I think, whether that is good or bad. I am not saying it is or is not. But, as a matter of fact, I think the Congress is primarily responsible for the growth of consultants in the Federal Government.

That trade bill we almost passed the other day would have required 150 different reports within about a year and all of that would have had to be done by consultants, practically.

So, whenever we require a report and put a timeframe on it, there is just not time for people to go out and hire the in-house expertise in the first place. And more important, I do not think you can get the job done within a limited time for the salaries you pay Government employees anyway.

We have to be careful, in other words, in my judgment, we do not shoot ourselves in the foot as Congress requires this information within a short period of time from the executive agencies. I think in many instances they have no alternative but to contract out for these on a consultant basis. It is a question of, one, whether we need those reports, and two, whether it could have been done in-house.

I do not disagree with what you are doing. I think you are on the right track and we ought to find some way, and I am sure Mr. Wright does, too, to limit consultant spending. The amount of consulting services is atrocious, but the problem is how do we restrict it? I think it is going to take discipline on the part of the Congress as well as the Executive Branch to do that.

Mr. WRIGHT. Yes. I agree with Senator Stevens. It is difficult now, Mr. Chairman, to discuss this intellectually unless you separate it by categories. I think you are not going to see that more control across the board on everything is necessarily needed. Some increased control, in certain areas, is desperately needed. And you saw that what I said is that in 90 days let me go and try to identify them. Again, remember we do not have a good data base to work with and I want to concentrate on that a little bit.

But many of these functions, like the large R&D projects, are just not what you would figure would be included in consultant services. And by the way, I do not believe you would want to staff up the Federal Government to be able to duplicate what is in the private sector in that area.

Senator PRYOR. I just want someone every once in a while before they dole out a lot of the taxpayers' money to some individual or some firm, to ask a question—can we do this in-house?

Mr. WRIGHT. I agree.

Senator PRYOR. Two, do we really need this? As we said in World War II, is this trip really necessary? And is this contract really necessary? Today no one is asking that question. The people who are supposed to ask the questions are Inspectors General, and they are not doing it, as a whole.

Mr. WRIGHT. Well, I will touch on that one a little bit, too.

Senator PRYOR. All right.

Mr. WRIGHT. Also, I might add, in addition to what Mr. Stevens said, you have another side of this, those areas where we should contract out more. I do not want to complicate this hearing with that, but that is the OMB Circular A–76 project which you have been involved in. It has been a very, very tough road to walk down for the Administration because—very plain and simple—there is not a lot of pressure to contract out, and most agencies would rather keep all those services in-house if they possibly could.

We have 750,000 full-time equivalent personnel that we consider are doing things that should be done by the outside, by the private sector, if it is more efficient and it is lower cost to the taxpayer. We only propose that about 20-some thousand of those get contracted out of that total base next year, for a savings of about $236 million. So that is the other side of that coin. And we have had a much harder time—a much harder time—getting those appropriate services contracted with the outside world than we have the other way around. I just wanted to add that.

Also, I have to say that there are at least 37 to 38 Congressional prohibitions on the contracting initiatives, particularly in the A–76 area. So that has been tough.

Now, you asked some questions. You said: Do we think the agencies are adequately managing the consultants? I think, Mr. Chairman, it varies by agency.

Senator PRYOR. It varies by agency?

Mr. WRIGHT. I would say across-the-board it is difficult to determine because we do not have the information systems in place.

Some of the budget restrictions, particularly in the domestic agencies now, and some of the guidelines, they are going to tie it down a little bit. But we still are going to have to take a task on of getting the management information tied in with the budget information to the point where we can provide OMB or whatever agency would be overseeing this, as well as the Congress, information on what is really going on.

You said, what are the problems that are occurring in this area? I agree with you. I think the contractors are performing functions that are not necessarily needed and I think there is duplication. Again, I hate to keep going back to the old thing, we do not have the information to be able to monitor it right now.

Some of the contracts are never-ending. That is true. I agree with that.

Senator PRYOR. Well, Joe, if OMB does not have the information to monitor it, who does?

Mr. WRIGHT. Well, I am going to give you an answer to it, Mr. Chairman, a proposal, sir. I am concerned about the insufficient competition. I do not think the reporting data base now in the Federal Procurement Data System is one that you can use as a management system. We have got to revamp that thing and tie it into the budget process.

I think some of it has been helped out by the new Circular which does expand it to a base which I think is more appropriate for total consulting services. But still, that Circular has got to be backed up with a good data base and it has got to be backed up with a good monitoring system. Otherwise, you have apples and oranges out there.

You asked how many consultants did the Federal Government use in fiscal years 1986 and 1987? We can give you total dollars. We cannot give you the number of consultants because, again, the way the definition is, in a lot of places it is hidden.

Senator PRYOR. And what are your total dollars? You say you can give total dollars. What are those?

Mr. WRIGHT. Well, our dollars, in terms of the total services, would be the same as you have over there from our Cabinet Council.

Senator PRYOR. So you are not disputing our figures, are you?

Mr. WRIGHT. No, not at all.

Senator PRYOR. You are agreeing with our figures?

Mr. WRIGHT. Well, Mr. Chairman, with all due respect, the figures started with us. That was the Cabinet Council and because our people are updating it—we do not argue with that at all.

Do we have particular goals or limits for the number of consultants a particular agency should use? The answer is, no we do not. The reason we do not—we want them to follow the guidelines—is because at this particular stage we would not be able to monitor it through the budget financial accounting data base systems that we have.

Mr. Chairman, they are incompatible. That is our problem. And I am going to finish on that.

Do we have any guidance on the payment of consultants? No, we do not particularly have that in terms of the payment itself. We ask them to basically follow a competitive proposal. We push on the competitive side and we think that the market system ought to be able to set those rates for the most part. GSA does issue guidelines for the compensation of advisory committee staff and consultants.

You asked what our plans are. Well, let me tell you what our plans are because I think this really gets down to it and I think these hearings are very helpful in this regard. Number one, we have requested in this fiscal year 1989 budget $5.9 million to finish our budget upgrade, our financial accounting system upgrade, which would include the ability to cross-walk between contracts and line item accounts in dollars. We desperately need that.

Now, we have nothing in the House. And I hate to use this hearing as a way of leveraging. But if we do not have the ability to work with the agencies in terms of having them come in with the number of contracts they want and for what purposes on a contract basis, convert that into dollars, put it up here in the budget, moni-

tor it through the financial accounting systems and the Federal Procurement Data System, and then go back again in terms of the next year's budget, you are not going to have a system that not only is able to monitor this area but any activity of the Federal Government that is monitored on an activity basis for management and on an account line-item basis for budget.

What we are doing right now is running with a couple of hundred incompatible financial accounting systems that are not coordinated with the budget and are not coordinated with the Federal Procurement Data System.

We have gone for 6 years working up to a point where we have the standard general ledger system finished. We are now implementing it. We need a few dollars to be able to go on ahead and finish the job.

Senator PRYOR. Well, I appreciate all of that, Mr. Wright, but I will say this. We can, with all the computers and all the equipment and all the fancy cross-walk ideas you want, but unless there is a will out there to do it, we may as well save that money. And right now there is no will.

Mr. WRIGHT. That is a little harsh, Mr. Chairman.

Senator PRYOR. You may have the will, but these agencies do not have the will. The President has the will, but he does not know what to do about it. He has mandated the IGs to go out there, and this was back in 1984, and they are not doing it. No one is doing it. There is no will to do this.

Mr. WRIGHT. I understand. The way you get will in this town, the way I found out, is by the budget. I am not saying that is right. I am not saying it is wrong. But this is the way you can get agencies' and employees' attention. You have got to be able to tie it in.

Senator PRYOR. Let me ask you something, and this is a kind of a kick-off. We are going to have some more discussions about this, Mr. Wright, but I want to ask your help in something.

Mr. WRIGHT. Yes, sir.

Senator PRYOR. I think if we look at this whole issue of contracting out and consultants—and again, no one has raised this this morning—but the President, in all due respect, feels that privatization of the Federal Government is a sound, I think, principle. And I am not going to argue that.

But one thing I would like you to look at. Mr. Hanrahan in his book—John Hanrahan's book on "Government by Contract," he states on page 21: "More than 130,000 Government employees, about 1 in every 20 on the Federal payroll, were needed to administer the vast array of contracts. In some agencies or units within agencies, the major part of the budgets were being spent on contractors."

I think this is a key issue for us to look at. Count not only how many contracts, how many dollars, but how much of the Federal work force are we having to use to administer and maybe even monitor these contracts? I think that is a key issue, and I hope that you will look at it in your capacity in OMB.

But you may not have a lot of time left. I mean, I do not know this.

Mr. WRIGHT. Well, it all depends, Mr. Chairman.

Senator PRYOR. But I hope if you have time left and it extends past January of 1989, I hope that we can really do something together, whoever is elected President. You know where I am coming from on this.

Mr. WRIGHT. Yes, sir, I do, and I agree.

We want to wrap up getting that information system in place. It is necessary. And, by the way, I have to add this. You are not going to be able to get an answer to that question that you just asked as to the number of people that are involved because, again, they are involved in an activity that does not come across in a separate item in the line-item account, which is total S&E for an agency.

Senator PRYOR. All right. Talking about line items, in 1981 and 1982, when I introduced legislation to have these appropriations done by line-item, who would oppose my legislation but OMB? Now, is OMB going to oppose me again on this? I am trying to identify this. Is OMB going to oppose me again?

Mr. WRIGHT. We would not oppose you if we could put together a package, again—and I am harking back to the earlier point, and I apologize for the redundancy—but where we can put together a package that is not totally incompatible for the entire Government, that just involves a huge paper load on not only the agencies, but ourselves and you all. And the whole purpose here is to make sure that we are able to do the budget upgrade system to where we can give you account structure as well as activity structure. And then you will not have a problem.

We cannot do that right now. And if you put that large information load on it, with the antiquated systems we have right now, Mr. Chairman, you are not going to get information, you are going to get paper. That is the only problem there.

We would be happy to work with you on what would be the conditions for providing that information, not just for consultants but by activities of what is going on in this Federal Government.

Senator PRYOR. Well, I think that we are all going to have to sit down one of these Friday afternoons, close the doors and take the phones off the hook and together with OPM and OMB, the Inspectors General or whomever first come up with a definition of what we are talking about. I think that is the first step. I am so frustrated by that, as I know you must be. I am not sure the agencies are frustrated.

Mr. WRIGHT. Mr. Chairman, just let me know where it is and I will be there.

Let me tell you what else we are going to do right now, which I think this hearing is helpful. Every year the Congress requires the agencies report under the Federal Managers Financial Integrity Act. This year we will make sure—we will work with GAO—and make sure that they do have a full update on their compliance with A-120.

Also, we prepare every year a management report to the Congress that comes up with the budget. It is one of the budget documents. We will have a separate section this year on agency compliance, where we will take each one of all of those agencies' reports and we will put them into one section for you.

On the PCIE, you are right. I am Chairman of that group. I will see that they do carry out their responsibilities on this one. It looks

to me like we did have real confusion as to whether or not this still is a requirement of the law. We have checked with our counsel at OMB who has told me that it is. Therefore, we will make sure that they comply with that.

And then, finally, I will have, within about 90 days, imperfect as it is going to be, the list of those areas that we think are the biggest problem areas in this whole consulting and contracting area. We will send it up to the Committee and we will try and tell you how we are going to improve oversight of it.

That concludes my testimony, Mr. Chairman.

Senator PRYOR. I thank you, Mr. Wright. Hold on just one moment. I have a couple of questions.

I am curious about something called, "Reform '88." What is Reform '88? Was that one of your ideas? The idea is great. What are you doing with it?

Mr. WRIGHT. Well, I am credited with it, Mr. Chairman. A lot of people say that is my IQ for even starting the whole thing.

It is basically a revamping of the administrative and management systems structure in the Government. Let me tell you of what it consists. We first started with putting in a cash management system. We have over a trillion dollars coming in and a trillion dollars going out—more going out than coming in—and we did not have a cash management system in place. We now have 450 cash concentration systems around the world, and we do have it in place. No longer are people able to do early drawdowns on us and collect the interest on us.

We now have a credit management system in place. We did not have any before. Congress passed the Debt Collection Act of 1982 which helped us out a lot. This starts all the way from the beginning and getting the pre-screening clearances for all the loans, all the way to the back end where if you are delinquent against the Federal Government, you do not get a refund on your taxes. If you are a Federal employee and you do not pay it back, your wages are going to be garnished.

If you are coming in for Federal employment, you have got to list it, the fact that you are delinquent, seriously delinquent. You cannot get a loan from a Federal agency if you are delinquent or default to another Federal agency. We had one guy do that four times on us.

The things that are affecting us right here. Those are large financial accounting systems. We had a hodge-podge of over 400 primary financial accounting and payroll personnel systems that were incompatible.

So we have spent 6 years now putting together the Federal Financial Accounting System and are about halfway through the implementation right now.

Senator PRYOR. Now, none of the Reform '88 had anything to do with the monitoring of private contracting or consulting; is that correct?

Mr. WRIGHT. First of all, we need the systems in place to be able to monitor. So from that standpoint it does. Second, Al, do you want to mention this? What we got into on the A-76.

Mr. BURMAN. Also in the A-76 area—in the productivity area—we were looking at how to improve the Government's productivity

across-the-board in-house and also how to try to see what we could do about these commercial type activities.

Senator PRYOR. Now, this is a mean, sneaky little question and I am not going to really pursue it, but do you know how many dollars were spent on this program called Reform '88? Do you know how many consulting dollars you have spent to help put this together?

Mr. WRIGHT. No, sir, I do not. And I am not so sure I could get that information for you. Let me say this——

Senator PRYOR. Well, I think American Management Systems is the firm that has been doing the work.

Mr. WRIGHT. No. It really varies. Let's talk about the large projects. The big cash management project, which was the first one we went out with, at one time in 1982, I can remember deciding whether or not we were going to do that all with Federal employees in the Department of the Treasury. We decided that just did not make sense to duplicate the private sector banking system. So we are using all private banks on that one.

On the credit management, there are the private sector credit reporting agencies that we get these reports from and that we also hand them the information. Then there are seven or eight collection agencies—I cannot name them for you right now, Mr. Chairman, I can get them for you—that did that.

For the most part, we have relied upon the private sector. You may not want to hear this, Mr. Chairman.

Senator PRYOR. I think I am learning more about this than I really care to know, but that is all right. Go ahead.

Mr. WRIGHT. Well, you asked the question. It is one of my babies. But anyway, we have primarily relied upon the private sector in order to do that because of one very simple reason. Once we build it, then we have it and we would not need those people that were building it in the Government.

Senator PRYOR. Well, let's go back to one more thing. I brought up two or three times this morning about our Inspectors General not complying with 31 U.S.C., section 1114. How did this come about? How did they feel that they were not mandated to monitor and to oversee these consulting contracts and private contracts? Some of them did and some of them did not.

Mr. WRIGHT. Some of them did and some of them did not.

Senator PRYOR. You all have an organization of IGs.

Mr. WRIGHT. The President's Council on Integrity and Efficiency was organized in part to be able to make sure that communication does occur.

Senator PRYOR. If there was a conflict in a matter this large, wouldn't that have been discussed at least on an informal basis around a cup of coffee or something?

Mr. WRIGHT. Normally it is done every month, Mr. Chairman. We get together every single month and we discuss items just exactly like this. There apparently was a disagreement on whether or not this was legally required.

Senator PRYOR. Did anyone ask for a legal opinion?

Mr. WRIGHT. We did—and we have a legal opinion. It is required and they are going to do it.

Senator PRYOR. When was that legal opinion requested?

Mr. BURMAN. Just recently because we were just made aware that all the agencies were not doing this. Certainly some agencies were continuing to go ahead. The Defense Department, for example, has been providing annual reports to Congress. The Commerce Department has. But we were not aware that there was this discrepancy.

Senator PRYOR. Well, here is the Inspector General from the Department of the Interior who says they have not done anything in 5 years. They have been sitting there 5 years doing nothing.

Mr. WRIGHT. They are going to.

Senator PRYOR. The USDA Inspectors General say they have never done anything on this.

Mr. WRIGHT. Well, they are going to, Mr. Chairman.

Senator PRYOR. We have had 4 or 5 years of noncompliance in face of a March 13 directive from the President directing the Inspectors General, as coordinated by the President's Council on Integrity and Efficiency, to perform spot checks and audits of the various agency controls of consultant services. Initialed "RR."

Where is the will? What does it take to move this bureaucracy? What does it take?

Mr. WRIGHT. I think, Mr. Chairman, one of the things that I can very easily credit you with is when you do have oversight hearings like these, that this is one of the benefits to concur from this. If something does fall between the cracks, we will close it up.

Senator PRYOR. All I can say is that—and I think that Congress has a lot to do with it and we should take a lot of the blame ourselves—but I think that OMB and a lot of other agencies must also share a lot of the blame for the long delay in trying to deal with this issue.

I understand in 90 days you will, I guess, get us a list of some of the problems that you have encountered. Mr. Wright, I would say that about that time I would like to invite you back to see what you have found out and to see how we might work together to really do something, to find some solutions to these severe problems that I see.

We have never talked about the policy aspects. We have talked about the dollars aspects. I mean, it was a long time ago when some of our leading academic leaders were talking about the danger of contracting out these services and the invisible Government that we were creating out there.

I have, frankly, a real concern on some of our defense areas. I feel that some of these consulting firms—and maybe you want to call them, or not call them, the Beltway Bandits—are in a very, very potential conflict of interest situation. I feel it is pretty scary to know the type of work they might do for, let's say, some of the major oil companies and then that same week they are doing a similar or related study for the Department of Defense. I am worried about this invisible Government.

I thank you for coming, and I thank you for coming, Mr. Burman; and we will see you again, I guess, in about 90 days.

Mr. WRIGHT. I look forward to it, Mr. Chairman.

Senator PRYOR. Thank you, Mr. Wright.

Our next witness is Ms. Claudia Cooley, who is the Associate Director, Office of Personnel Management, Personnel Systems and

Oversight Group. Ms. Cooley is accompanied by Mr. Leonard Klein, the Deputy Associate Director of the Career Entry Group.

We look forward, Ms. Cooley, to your statement. I read your statement last evening, and I found it to be very short. You may read it if you like, or summarize it.

TESTIMONY OF CLAUDIA COOLEY, ASSOCIATE DIRECTOR FOR PERSONNEL SYSTEMS AND OVERSIGHT, OFFICE OF PERSONNEL MANAGEMENT, ACCOMPANIED BY LEONARD R. KLEIN, DEPUTY ASSOCIATE DIRECTOR FOR CAREER ENTRY GROUP

Ms. COOLEY. Thank you very much, Mr. Chairman. With reference to the length of my statement, I want you to know that I think the fact that it is very concise proves beyond a shadow of a doubt that it was not prepared by a consultant.

Thank you very much for inviting the Office of Personnel Management to appear at this hearing. The basic law concerning the Government's use of experts and consultants was enacted in 1946 and now appears in section 3109 of Title 5, United States Code. Under this law, an agency may hire experts or consultants for temporary or intermittent service, provided the agency has a specific statutory authorization. An expert or consultant appointed under this section is not covered by the normal civil service laws governing the appointment, classification, and General Schedule pay.

Section 3109 does not include an explicit authority for OPM to regulate its use. Thus, our involvement in this area is limited to trying to make sure that this very flexible authority is not used to circumvent the normal civil service rules by permitting the employment of individuals in positions that should be filled by regular Government employees. Also, section 3109 specifically bars its use when the position involved would normally be in the Senior Executive Service.

Accordingly, OPM has issued guidance in the Federal Personnel Manual explaining the circumstances in which it is or is not proper to appoint experts and consultants, and outlining the basic provisions of law governing the use of these employees.

The authority to employ experts and consultants is a very important flexibility for agencies to have, since the temporary use of specialized skills not available in the agency's permanent work force can be crucial to carrying out and improving an agency's work. However, it is also clear that this authority could be misused in order to circumvent normal personnel rules and we therefore make an effort to monitor agency use of this authority.

This is done as part of our Government-wide agency compliance and evaluation effort. In order to utilize scarce resources effectively, we make extensive use of statistical information in our Central Personnel Data File as an integral part of our evaluation of agency personnel management practices. Our File now includes detailed data on experts and consultants, which allows us to identify, for example, unusual shifts in the patterns of employment of experts and consultants. We also make Installation Assessment Visits to gather information at particular locations and we will be making a special effort in all of these visits in the Washington area this year to see if there are problems relating to the use of experts and consultants.

In addition, our area offices are on the lookout for agency requests to certify for competitive service positions individuals who have been employed by the agencies as experts or consultants, to make sure nothing improper has occurred.

In 1981, for example, our Washington area office found indications that one department had improperly used expert and consultant appointments to qualify individuals for competitive service appointments. As a result, we required that all expert and consultant appointments in that department be submitted to OPM for post-audit. This review process continued for several years, until we were convinced that such close scrutiny was no longer needed.

These various efforts to monitor agency use of experts and consultants have turned up occasional problems, but on the whole, the evidence we have indicates that the use of experts and consultants is being handled properly by the agencies to obtain the kinds of expert, specialized services that the authority was intended to provide.

Thank you. We would be happy to answer any questions the Subcommittee may have.

Senator PRYOR. Ms. Cooley, thank you. In this morning's Washington Post I notice that OPM has just awarded a contract for $316,681 to the American Management Systems for, "consulting services."

Now, what is that contract about?

Ms. COOLEY. I am sorry, sir. I am not familiar with that contract. It does not belong in my program area in OPM. I would be happy to provide that information for the record.

Senator PRYOR. All right. I would like that information. I would like to know if it was an unsolicited proposal. I would like to know if it is sole-source, and I would like to know if the question was asked, could this service be performed in-house, and whether this is a contract that is a never-ending contract or if it is one which some day may find an end.

[The information referred to follows:]

AMERICAN MANAGEMENT SYSTEMS CONTRACT WITH OPM

On December 18, 1987, OPM published a notice in the *Commerce Business Daily* stating that it intended to issue a Request For Proposal (RFP) to obtain an Independent Validation and Verification (IVV) contractor in connection with the development of an automated information system to support the recordkeeping and processing requirements of the new Federal Employees Retirement System (FERS). IVV contractors are frequently used in large scale systems development initiatives to assist in monitoring and testing the development effort to assure that the resultant systems are efficient and will meet user requirements and Government standards. The contract will supplement OPM's scarce data processing resources and was determined to be the best mechanism to accomplish this task over the four to five year life of the FERS automation initiative.

The contract is a Task Order contract with an initial term of one year, renewable for up to four additional one year periods. Under a Task Order contract, the Government identifies specific tasks that are to be accomplished during the course of the contract and the contractor submits a task specific technical and cost proposal which the Government accepts, rejects, or requests to be modified. The nature of the tasks to be performed are set forth at the outset, but specific task orders are developed on an "as needed" basis. While there were no guaranteed tasks or amounts of funds committed, the RFP provided a baseline estimate of the number of hours required for costing purposes. The AMS bid using this baseline was $316,681 (the figure cited in the Post).

The RFP was issued on January 11, 1988, to 180 prospective offerers who had indicated interest by replying to the *Commerce Business Daily* notice. Eight firms actually submitted proposals, two of which were determined to be unresponsive to our requirements and six of which were conditionally acceptable and underwent the full evaluation process. That process entailed the creation of an evaluation panel of eight senior career staffers who conducted a rigorous examination of the bidders' professional staff qualifications, experience with similar projects, demonstrated understanding of the work to be performed and the technical approach to the work. The firms and agencies cited in the proposals were contacted to determine how well the various contractors performed, what results were achieved, and to obtain references on the personnel bid for the OPM work. Meetings were held with each of the six finalists at which the strengths and weaknesses of their proposals were discussed and at which time the proposed work was discussed with the proposed project manager. The offerers were then given one week to perfect their technical and cost proposals. AMS was judged to have the best combination of technical merit and cost. The contract was awarded to them on May 18, 1988, five months after the competitive procurement was first announced. AMS is precluded from doing other work associated with the FERS initiative by the provisions of OPM's contract.

Senator PRYOR. Second, in March we wrote to the Office of Personnel Management on behalf of this Subcommittee to provide this Subcommittee with any copies of audits, studies or reports that had been done on consulting within the past 4 years. This was a very easy request. OPM, in fact, has not done any audit, study or report on consulting or consultants in 4 years; is that correct?

Ms. COOLEY. We have not done any reviews or studies directed to experts and consultants in and of themselves.

Senator PRYOR. Why?

Ms. COOLEY. In our process of oversight for expert and consultant appointments, we do review on a quarterly basis the statistical information that we obtain from the Central Personnel Data File. We have been looking at that on a quarterly basis to determine if there are problems with these appointments in individual agencies. And where we have had questions and concerns, we have done follow-ups on individual appointments to make sure that they have been done in accordance with the appropriate procedures and processes.

We also have followed up, for example, some concerns that were raised with regard to the Civil Rights Commission in another feature of our program, which is Installation Assessment Visits. In that particular case we did find some problems in terms of the documentation relating to experts and consultants.

Of course, we are continuing in all of our area offices to monitor individual actions where experts and consultants are being requested for competitive service positions. This is where our main focus is, on making sure that people who are moving from the excepted service into the competitive service do so under proper procedures and open competition and meet the qualifications that are needed for those positions and are the best qualified people.

Senator PRYOR. Do your statistics indicate how many of these contracts that are being signed with the private sector by the Federal Government are being done sole-source?

Ms. COOLEY. No. I am sorry. In the appointment process, sir, we are only dealing at OPM with the experts and consultants that are hired in an employee-employer relationship and so these are not contracts, these are hires.

Senator PRYOR. All right. So you call these appointments?

Ms. COOLEY. Yes, sir.

Senator PRYOR. Is there any competition for these appointments? Do you have that information?

Ms. COOLEY. No. There is no requirement for competition for expert and consultant appointments and agency heads have the sole authority in the appointment process for experts and consultants. There is no role for OPM.

Senator PRYOR. Is there a limit as to the amount of money that an appointee may receive?

Ms. COOLEY. Len, would you speak to that? Yes, there is an upper ceiling on it.

Mr. KLEIN. Yes. A GS–15, step 10, is the upper limit for daily pay for an expert or consultant.

Senator PRYOR. How much is that?

Mr. KLEIN. Now, if they are an engineer or scientist or a medical officer, they can go up to a GS–18. Of course, the two are not very different at this point in time.

Senator PRYOR. What is the GS–15?

Mr. KLEIN. $273.60 a day.

Senator PRYOR. A day?

Mr. KLEIN. That is right.

Senator PRYOR. And if they were a doctor or scientist or an engineer, they could go up to what a day?

Mr. KLEIN. About $277.92. It is a very slight increase.

Senator PRYOR. Does the Federal Register or anyone have to say that agency X is looking for someone to perform a certain function or service?

Mr. KLEIN. No. As Ms. Cooley stated, we have no direct authority over experts and consultants under Section 3109. Our oversight is really sort of a back door oversight. Since we are responsible for the merit system, the competitive process, where one of these appointments infringes on the competitive process, for example, goes over a year, or is being used for a function that does not really indicate a consultant kind of responsibility, then we step in. But otherwise, we really have no direct authority.

Senator PRYOR. What about these so-called visits you say you are going to make around, these assessment visits? Is that what you call them?

Ms. COOLEY. Yes, sir. This is part of our ongoing evaluation program and what we are going to be doing, both this year and also in 1989, because it is a transition year, is to ensure that a review of expert and consultant appointments is done on those visits. Right now we do those visits as a matter of course every year but normally what happens is, if we have some indication before we go on those visits from the data or from other kinds of complaints and information, we may look at experts and consultants. But there is no requirement to do that.

Now as a matter of course, we will require our evaluators in the remainder of this year and next year to look at experts and consultants in agencies where they have significant numbers.

Senator PRYOR. Ms. Cooley, how many of these assessment visits—do you have a figure there—did you make in 1987, for example?

Ms. COOLEY. More than 500. I do not have the specific figure with me. But it is in the hundreds; more than 500, I believe.

Senator PRYOR. Does an agency, if they want to effectuate an appointee or an appointment for expert services, do they have to justify this in any way? Or do they just do it?

Ms. COOLEY. They are solely responsible for deciding whether they need to have an expert or a consultant to do the particular service. Where we come in is to make sure that they are not using this appointment as a substitute for hiring someone into what is really or should be a competitive service job. That is where our primary focus is when we do this oversight review.

Senator PRYOR. Let's look at the U.S. Information Agency, USIA, for just a moment. I am troubled by something. One is that we have found that 5 of the 17 people who have been hired as consultants were awaiting the approval and security clearances necessary to convert them to Schedule C appointments. It looks like they started their jobs before their security clearance cleared.

Do you know anything about this?

Ms. COOLEY. No, sir, I do not. Let me say, in general that our efforts are focused on people who are moving into competitive service positions rather than one excepted kind of appointment moving to another excepted kind of appointment, such as a Schedule C position.

That is where our priority is and that is where our emphasis is, and that is really where we think our only authority is as far as expert and consultant appointments are concerned.

Senator PRYOR. Well, I can see a real security problem here if you go ahead and decide they want a certain expert. They hire that expert, bring them on board as a consultant before their security clearance has been effectuated. I think that is a whole other issue.

Ms. COOLEY. In terms of our investigations program and the requirements related to that and the proper clearances needed before someone is brought on board, that would be a concern to OPM.

Senator PRYOR. Do you have any sort of a mechanism in OPM that rings a bell or sends up a red flag in case a consulting firm or an individual starts getting all of these contracts, just one after another? Does anything like that trigger anything to go off where it would bring it to your attention?

Ms. COOLEY. Is this buzzer that just went off an indication? [Laughter.]

As far as individuals getting repeated appointments are concerned, we certainly could, through our data system, see if an individual were being appointed again and again. The way we normally, though, approach this problem, is we look at it from an agency to agency kind of basis rather than one individual across agencies. So our focus tends to be on expert and consultant hirings within an agency.

Len, do you want to add to that?

Mr. KLEIN. Senator, these appointments are for 1 year and they must be either on a full-time temporary basis or intermittent. Now, they can extend these appointments on an annual basis, but if they extend them beyond the first year, they may only be on an intermittent basis. In other words, the employee can only work as called-in rather than full time. So there is a control in that way.

Senator PRYOR. Well, I had cited earlier, Ms. Cooley, about your agency's contract with American Management Systems. OK. That

is with OPM. But over at the Environmental Protection Agency, I can tell you for sure that the American Management Systems are making out like gang busters, because I can see here it looks like some 40, or maybe 50, individual contracts for that group, and that is within the early part of 1987.

Ms. COOLEY. But I believe those are through the procurement process, Senator.

Senator PRYOR. They might be. And then here is Booze, Allen and Hamilton. They have received about 15 or 20.

Ms. COOLEY. The appointments that OPM is involved with involve individuals and not contracts with firms.

Senator PRYOR. Well, we have a lot of individuals over there in EPA, too. I just wondered if it just rings a bell. Some of these individuals get a lot of contracts.

Ms. COOLEY. But if it is a contract, Senator, that is handled through the procurement process.

Senator PRYOR. They may be appointments. I do not know if this breaks it out or not.

Mr. KLEIN. Senator, I do not believe the individual appointments of employees as a consultant or expert appear on that procurement sheet.

Senator PRYOR. I will not even name the department, but this looks like supplemental information, expert or consultant. It gives the person's name. He lives in Falls Church. He wants to work 110 days, or the agency wants to hire him for 110 days. Here is the justification: "The newly appointed Assistant Secretary of our Department needs immediate assistance on a short-term basis for preparing speeches and responding to sensitive correspondence."

And then it goes down: "Special qualifications—excellent writing skills.

"Mr. so-and-so is thoroughly familiar with the writing and speaking style of the Assistant Secretary of this particular agency."

Now, would this come under the OPM category? Would this be an expert? Or would this be a so-called consulting contract?

Ms. COOLEY. Well, it sounds to me like it would be somebody they plan to appoint.

Senator PRYOR. This is an individual. I mean, he is not a company.

Ms. COOLEY. Yes, someone they would be hiring for 110 days, or for a certain specified period of time to perform a specific task that they do not think can be performed by the people in the agency who are there currently. But again, that decision to hire that individual is something that is the agency's decision to make, and they are not required to compete that job. They are not required to identify the best qualified person for that position. They do have the authority to make that appointment, so I would not see anything on the surface that would say that there is something wrong with that action in terms of the technical requirements that exist at this point in time.

Senator PRYOR. Well, he was going to work 110 days at—let's see—I believe it is $28.50 an hour. I just wondered if that type of contract came to your attention or fell in the area of statistical information.

Mr. KLEIN. It is difficult to say, Senator. It might be an absolute procurement contract, also, with an individual.

Senator PRYOR. Do we have, within the system of Government, hundreds of these cases, or thousands?

Ms. COOLEY. When you say "these cases," do you mean of expert and consultant appointments as opposed to hiring through the procurement process?

Senator PRYOR. Yes. Right.

Ms. COOLEY. We had approximately 3,500 experts and consultants on board in 1987. Additionally, we also have advisory committee members because they are intermittent and temporary excepted appointments.

Senator PRYOR. There are thousands of those, right?

Ms. COOLEY. There are probably 1,800 or so of those and then there are about 3,000 or so experts and consultants in addition to the advisory committee members. But the total numbers in 1987 were about 5,600, including the advisory committee members. And by the way, that number has decreased from about 14,000 in 1973, and it continued to decline from 1973 to 1981. In the last 7 years it has been fluctuating between about 4,500 and 5,700.

Senator PRYOR. Ms. Cooley and Mr. Klein, we appreciate your coming and sharing this information with us. We will be having another hearing in about 120 days or so on that. We will invite you back.

Also, for the record, a report prepared by Sharon Gressle of the Congressional Research Service entitled "Consultants in the Federal System" will be made a part of this record.[1] I want to thank Ms. Gressle of CRS for her work on this matter.

The hearing is adjourned, and I thank the both of you very much.

[Whereupon, at 12:10 p.m., the Subcommittee adjourned subject to the call of the Chair.]

[1] See p. 95.

APPENDIX

United States General Accounting Office

GAO

Testimony

For Release
on Delivery
Expected at
10:00 A.M. E.D.T.
Monday
June 13, 1988

Federal Government's Use of Consulting Services

Statement of
Bernard L. Ungar
Associate Director
General Government Division

Before the
Subcommittee on Federal Services,
Post Office, and Civil Service
Committee on Governmental Affairs
United States Senate

GAO/T-GGD-88-39

ISSUES RELATED TO THE FEDERAL GOVERNMENT'S USE OF CONSULTANTS

SUMMARY OF STATEMENT BY
BERNARD L. UNGAR
ASSOCIATE DIRECTOR

GAO has done considerable work in the past on the use of consultants. Consultants can play a valuable role and the government can benefit from the services and advice they provide. However, we have also found that the government's use of consultants has been vulnerable to abuse and improprieties due largely to incomplete reporting on the use of consultants and limited monitoring by Inspectors General of agency compliance with rules and requirements concerning the use of consultants.

The Office of Management and Budget (OMB) provides guidance to federal agencies on the use and reporting of consulting services contracts, and the Office of Personnel Management (OPM) provides guidance on consultant appointments. Information on consulting services contracts is maintained by the General Services Administration (GSA). OPM maintains information on consultant appointments.

Our current and past work has shown that governmentwide information on the use and cost of consulting services is understated because of (1) varying agency interpretations of what constitutes consulting services and (2) reporting system limitations. OMB has recently revised its guidance, and this should help clarify some of the ambiguity regarding the consulting service definition. Also, the use and reporting of consulting work is not being evaluated as required by law by all statutory Inspectors General.

Information is not available to determine the total cost of consulting services to the government. Although GSA reported consulting service contract obligations of $245 million for fiscal year 1987, we estimate such obligations to be at least $4 billion on the basis of criteria established by the President's Cabinet Council on Management and Administration. Applying broader Cabinet Council criteria would increase this estimate by some undetermined amount -- up to $16 billion -- depending upon how many contract actions in this broader category were for consulting services. Preliminary consultant costs for consultant appointments reported by OPM for fiscal year 1987 were $31 million.

We found that 10 of the 19 statutory Inspectors General were not making statutorily required evaluations of agency progress in establishing effective management controls and for improving the accuracy and completeness of reported information. Although 6 of the 10 told us they thought the law requiring the evaluations had been repealed, it is still in effect.

Mr. Chairman and Members of the Subcommittee:

I am pleased to be here today to discuss a review we are doing at your request on the federal government's use of consultants. Since 1961 we have issued over 40 reports and testified before Congress on numerous occasions on consulting services in the government. Consultants can play a valuable role and the government can benefit from the services and advice they provide. However, we have also found that the government's use of consultants has been vulnerable to abuse and improprieties largely due to incomplete reporting on the use of consultants and limited monitoring of agency compliance with rules and requirements concerning the use of consultants.

You asked us to evaluate the issues and problems relating to the government's use of consultants. Our current work has focused on the nature and extent of monitoring and reporting on agencies' use of consultants. Although our current work has not addressed the propriety of the government's use of consulting services, our past work has addressed this issue (see app. I).

We have reviewed applicable laws and regulations and obtained information from officials of the Office of Management and Budget (OMB), the Office of Personnel Management (OPM), the General Services Administration (GSA), and the 19 statutory Inspectors General on their roles and responsibilities involving consulting

services. We reviewed GSA and OPM reports on consulting services for fiscal years 1984 through 1987. At the request of the Subcommittee, we also met with officials of the Small Business Administration (SBA) and reviewed files to determine what information an individual agency maintains and reports on its use of consulting services. We reviewed GAO reports on consulting services issued since 1961 and also reviewed a report on consulting services prepared by the President's Cabinet Council on Management and Administration in 1984.

Although some actions have been taken to address problems we have previously identified, our current work has shown that governmentwide information on the use and cost of consulting services is still being significantly understated because of varying agency interpretations of what constitutes consulting services and reporting system limitations. Also, there appears to be limited monitoring of (1) the accuracy of agencies' reports on consultant use and (2) the adequacy of management controls over the use of consultants. For example, monitoring of the use and reporting on consulting services is not always being done by the statutory Inspectors General.

It is important for agencies to have a clear understanding of what consulting services are, not only for reporting purposes, but also for exercising management control and oversight over their use. Also, Congress needs reliable information on proposed

and actual agency use of consulting services and their cost to assist in its budget deliberations and oversight.

BACKGROUND

Agencies acquire consulting services by contracting with nongovernmental sources and through temporary appointments of consultants, experts, and advisory committee members as federal employees. In this statement, we will refer to all three types of appointees as consultants. Consulting services obtained through contracts are authorized by the agencies' general statutory authority to contract. The statutory authority to appoint consultants is found in 5 U.S.C. § 3109, which permits the head of an agency to hire consultants when authorized by an appropriation or other statute.

Consulting services are used by federal agencies for a variety of reasons. Consultants can provide expertise that agencies may not be able to afford, cannot get, or may not need on a permanent basis. In addition, they can enable agencies to keep up-to-date in various fields and to obtain a variety of viewpoints from knowledgeable people having differing perspectives.

OMB provides guidance to federal agencies on the use and reporting of consulting service contracts in its Circular No. A-120. OPM provides guidance on consultant appointments in the

Federal Personnel Manual. OMB and GSA require federal agencies to report obligations for consulting services contracts to the Federal Procurement Data Center in GSA. This information is maintained in GSA's Federal Procurement Data System (FPDS). Also, OMB and OPM require federal agencies to report information on consultant appointments to OPM, which maintains this information in its Central Personnel Data File (CPDF). OPM also obtains and aggregates consultant basic pay, or cost, information from agencies' payroll systems.

CONSULTANT INFORMATION IS UNDERSTATED

Data on the use and cost of consultants hired under contract are significantly understated. For example, FPDS reported consulting services contract obligations of $245 million for fiscal year 1987. However, on the basis of criteria established by the President's Cabinet Council on Management and Administration, we estimate these costs to be at least $4 billion. According to OPM, preliminary cost for consultant appointments were $31 million for fiscal year 1987. We cannot comment on whether this amount is understated. Additionally, OPM reported about 5,200 appointments in effect as of September 30, 1987. However, they do not account for the total number of individuals holding consultant appointments throughout the fiscal year.

The understatement of obligations for consulting contracts occurs largely because of varying agency interpretations of the definition of consulting services contained in OMB Circular No. A-120 and limitations with the FPDS. These problems are not new. In 1977 and 1980, we reported that it was not possible to determine the full extent of the use and cost of consulting services in the government because of difficulties in defining consulting services. In 1980, we noted that although executive branch agencies reported obligations of $278 million in consulting services contracts for fiscal year 1979, the obligations actually could have approximated $2 billion.

History of definitional problem and evolution of OMB's policy guidance

Guidance provided by OMB in 1978 defined consulting services as "...[T]hose services of a purely advisory nature relating to the governmental functions of agency administration and management and program management."

In 1980 we reported that the fundamental problem with this definition was that it was vague and subject to too much interpretation and judgment. We believed the definition needed to be better understood by federal agencies. We recommended that OMB work with Congress to achieve a better and more uniform understanding of the definition in terms of coverage, clarity,

and congressional needs. In 1980, OMB issued Circular No. A-120, which provided new guidance and examples of what constituted consulting services. The definition, however, remained the same.

In 1984, the President's Cabinet Council on Management and Administration reported that estimates of the cost of consulting services could not be relied upon because of the vague definition. The Council recommended that OMB revise and broaden the definition of consulting services to include a wide range of advisory and assistance activities as identified by specific procurement categories in the FPDS, such as management and professional services, special studies and analyses, and technical assistance.

In January 1988, OMB revised Circular No. A-120 in response to the Cabinet Council's recommendations. The revised circular expanded the definition of consulting services as follows:

> "Advisory and Assistance Services are those services acquired from non-governmental sources by contract or by personnel appointment to support or improve agency policy development, decision-making, management, and administration, or to support or improve the operation of management systems. Such services may take the form of information, advice, opinions, alternatives,

conclusions, recommendations, training, and direct assistance."

The revised circular also provided specific criteria for the types of services covered by the new definition, such as studies, analyses, and evaluations; management and professional support services; and engineering and technical services. In addition, the revised circular provided new policy guidance on the appropriate use of advisory and assistance services and mandated additional controls for the management and reporting of those services. OMB said that each agency head is accountable for effectively monitoring and controlling advisory and assistance services.

Consultant contract costs understated

The Cabinet Council identified four procurement categories in the FPDS that it believed were exclusively for consulting services contracts and seven others that could include consulting services. Using the Cabinet Council's criteria, we estimated that for fiscal year 1987 reported obligations under the first four categories would have totaled $4 billion. The other seven categories included total reported obligations of $16 billion, an undetermined amount of which could be for consulting services. These estimates do not take into consideration certain reporting system limitations that I will discuss shortly.

Our review at SBA showed how definitional problems can affect the reporting of consulting services. Contracting officials at SBA said that they applied a very narrow interpretation of the 1980 OMB Circular No. A-120 when determining what constitutes a consulting service for FPDS reporting purposes. They said SBA had no obligations for consulting services contracts in fiscal year 1987.[1] They also said that the contracting officers' determinations of what constituted consulting services were not subjected to supervisory review.

On the basis of our review of seven SBA contracts totaling $815,000 awarded in fiscal years 1987 and 1988 for services such as research studies, we identified five contracts for $436,000 that we believe should have been classified as consulting services. For example, one of these contracts was for $42,000 to obtain information on the impact of telephone deregulation on small business. According to the responsible contracting officer, this contract was not considered to be for consulting services because she applied a narrow interpretation of what constituted a consulting service. Thus, in her judgment, the contract did not meet the criteria for consulting services. Since our initial discussions with SBA, a contracting officer

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[1]The FPDS showed that SBA reported consulting service contract obligations of $60,000 in fiscal year 1987. Our review of SBA contract documents indicated that this information was incorrectly entered into the system because the services in question were not for consulting services.

told us SBA applied a broader interpretation of consulting services for two recently awarded contracts.

Reporting systems limitations

Our review disclosed three limitations in the FPDS and CPDF reporting systems that contribute to the understating of consultant information. Two of these limitations relate to contracts and one relates to personnel appointments.

First, only contracts over $25,000 are individually reported by procurement category and entered into the FPDS. Actions of $25,000 and under are not reported by procurement category but are instead reported on a consolidated agency statement and entered into the system. This makes it impossible to identify consulting services within FPDS for any contract actions of $25,000 or less. According to the FPDS Standard Report for fiscal year 1987, contract actions for all types of procurements for $25,000 and under in fiscal year 1987 accounted for 98 percent of the total reported actions and 10 percent of the costs.

Second, understating also occurs if the consulting services do not form the predominant, or principal, part of the contract costs. According to OMB officials and correspondence, if the contract is primarily for products or services other than

consulting services, contracting officers are not to report it as a consulting services contract. Contracting officers are required to check the "yes" block on the FPDS Individual Contract Action Report only if the contract is solely for consulting services or if consulting services constitute the predominant part of the contract. For example, if an agency were to enter into a $450,000 contract for the purchase of $400,000 in equipment and $50,000 for advisory services on the equipment's use, the cost of the advisory services would not be reported as being for consulting services.

Third, agencies report to OPM the number of consultant appointments made throughout a reporting period. However, according to an OPM official, OPM reports information on individuals with consultant appointments only as of the last day of the period and does not report on those made and terminated during the reporting period. Thus, the CPDF report can understate the number of consultant appointments made during a quarter and for a year's period. For example, if an agency had appointed a consultant on July 1, 1987, and terminated the appointment on August 30, 1987, this appointment would not be included in the CPDF report for the period ending September 30, 1987. However, this does not necessarily mean that consultant cost data reported by OPM is also understated because the cost of appointments should be included in the agency's payroll system and, thereby, in the cost data reported by OPM.

OMB's new guidance will not totally resolve reporting problems

OMB's revised Circular No. A-120 generally reflects the Cabinet Council's recommendations as to what exclusively constitutes consulting services and should help clarify some of the ambiguity surrounding the consulting services definition. However, it is too early to tell to what extent improved reporting will result, although it is clear that it will not totally resolve the reporting problems with consulting services for a number of reasons.

-- The revised circular does not address the reporting system limitations we have discussed. Thus, these will continue.

-- OMB's January 1988 revision of Circular No. A-120 does not completely cover all major procurement categories that according to the Cabinet Council could potentially involve consulting services. This leaves the agencies with a considerable degree of discretion in identifying consulting services contracts, and underreporting could continue.

-- It is unclear at this point to what extent agencies will correctly implement the revised circular. As of May 24, 1988, SBA had not yet begun to use OMB's revised circular for FPDS reporting purposes. According to SBA contracting officials, this was because neither the Federal Acquisition Regulation nor the instructions for FPDS had yet been revised to reflect OMB's revised circular. We understand from OMB that the regulations and the FPDS reporting system instructions are being revised. Also, after we brought our findings to their attention, SBA officials agreed to reconsider how they are interpreting and applying OMB Circular No. A-120 and the Federal Acquisition Regulation for the reporting of consulting services.

MONITORING OF AGENCIES' USE AND REPORTING OF CONSULTING SERVICES VARIES

Our preliminary work indicates that the extent of agency monitoring of consulting services varies considerably.

OMB guidance contained in Circular No. A-120 requires that each agency's management control system for consulting services comply with the Federal Acquisition Regulation. According to OMB correspondence, each agency is responsible and accountable for

assuring that the acquisition of consulting services meets all applicable requirements. The Federal Personnel Manual provides that OPM will review consultant appointments during personnel management evaluations of agencies to assure the appointment authority is properly used and to identify problems in individual agencies. Our past work has shown that OPM's agency evaluations, in general, have been limited.[2] However, we have not specifically examined the extent to which OPM covers consultant appointments during these evaluations.

One possible monitoring mechanism agencies can use is the review of internal controls over agency operations required by the Federal Managers' Financial Integrity Act of 1982. The act requires agencies to identify any material internal control weakness and report on corrective actions being taken in annual reports to the President and Congress. Our analysis of agency reports prepared pursuant to the act for the last 4 years indicated that control weaknesses in procurement and personnel management activities were often reported. However, the reports did not indicate the extent to which the agencies examined the obtaining of consulting services.

As requested by the Subcommittee, we concentrated our preliminary work on monitoring done by the 19 statutory Inspectors General.

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[2]Federal Workforce: OPM's Approach for Conducting Personnel Management Evaluations (GAO/GGD-88-11, Nov. 4, 1987).

Each Inspector General, comparable agency official, or agency head or designee is required by 31 U.S.C. § 1114, enacted in 1982, to submit to Congress each year, as part of the agency's budget justification, an evaluation of consulting services. The evaluation is to consider the agency's progress in establishing effective management controls and improving the accuracy and completeness of the information provided to the FPDS on contracts for consulting services.

We have not addressed the adequacy of annual evaluations made by the Inspectors General. However, at the time of our review, information obtained from statutory Inspectors General at 19 agencies indicates that for 9 of the 19 agencies the evaluations are being done as required. At 10 agencies evaluations are not being done.

Of the 10 agencies where evaluations are not being made, 6 Inspectors General said they thought the law requiring evaluations had been repealed. We found, however, that the law is still in effect (see app. II). Of the other four, two said that their agencies had substantially established proper controls and they did not believe further evaluations were needed, and the other two did not provide explanations.

We could not determine the extent to which all nine Inspectors General making the required evaluations submitted them to

Congress as part of their budget justifications from the information they provided. However, we noted that at least two agencies had not submitted the evaluations as required. One Inspector General said the evaluations had been done but not reported to Congress as part of the budget justification. Instead, he submitted a statement to the Appropriations Committees saying the evaluation had been made, but he had not submitted the evaluation. The other Inspector General included the results of an evaluation in his semiannual report to Congress on his overall operations, but he did not submit the evaluation as part of the agency's budget justification.

PAST PROBLEMS IDENTIFIED BY GAO

Now that we have discussed the issues we have identified during our current work, I would like to briefly mention some other issues disclosed by our previous efforts. We have reported on the government's use of consulting services many times in the past (see app. I). We found problems in such areas as (1) inadequate competition in awarding contracts for consulting services, (2) potential conflicts of interest with consultants, and (3) incomplete justification for hiring consultants.

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This concludes my statement. We would be pleased to answer questions.

GAO Reports And Principal Findings On Consultant-Related Issues Since 1980

Controls Over Consulting Service Contracts At Federal Agencies Need Tightening (PSAD-80-35, March 20, 1980)

In six federal agencies we found:

-- Little or no consideration was given to in-house capability before consulting services contracts were awarded. Several contracts resulted from unsolicited proposals.

-- Extensive sole-source awards were made for consulting services. Several of these awards were made to former agency employees.

-- A significant number of contract modifications were made resulting in increased costs and delays in delivery of the end product.

-- Questionable use was made of consultants' products.

-- Inaccurate reporting of consulting services contracts was caused, in part, by confusion over the OMB definition for such contracts.

Government Earns Low Marks On Proper Use of Consultants (FPCD-80-48, June 5, 1980)

In over 30 reports dating back to 1961, we identified a need for federal agencies to better manage consulting services. For example:

-- Adequate competition was not obtained in awarding consulting services contracts nor did controls exist to minimize costs.

-- Reasonableness of fees paid for consulting services was questionable.

-- Consulting services were used to perform work that should have been performed by regular government employees.

-- Federal repositories were not being searched before new consultant studies were initiated, and many completed studies were not submitted to repositories.

-- Appearances of conflicts of interest existed in the award of consulting services contracts.

-- A disproportionate number of consulting services contracts were awarded in the final quarter of the fiscal year.

-- OMB's efforts to improve agencies' management of consulting services were not effective because of its ambiguous definition of consulting services and lack of rigorous agency procedures for approving consulting services contracts.

Agencies Should Disclose Consultants' Roles In Preparing Congressionally Mandated Reports (FPCD-80-76, August 19, 1980)

-- Consulting services contracts were used to meet over 40 percent of seven agencies' congressionally mandated reporting requirements. Agencies generally based their justification for using consulting services on (1) the lack of in-house expertise and (2) limited in-house resources and related time constraints.

-- The seven agencies paid approximately $17 million in 3 years to outside consultants representing two-thirds of the cost of meeting these reporting requirements.

-- Approximately 60 percent of the reports either did not disclose or inadequately disclosed consultants' involvement.

-- Two agencies used outside consultants on a continuing basis to help prepare recurring reports.

Controls Over DOD's Management Support Service Contracts Need Strengthening (MASAD-81-19, March 31, 1981)

-- DOD's use of consultants was weakening its in-house capability to perform work essential to fulfilling the defense mission.

-- Much of the work was performed by former Defense employees.

-- Extensive contract awards resulted from unsolicited proposals.

-- Continuous renewal of contracts occurred.

-- Consultant services were of questionable need and use.

-- Sole-source awards were overused.

-- Contract modifications were extensive.

-- DOD's interpretation of a consultant service was narrow, resulting in underreporting.

Civil Servants and Contract Employees: Who Should Do What For The Federal Government? (FPCD-81-43, June 19, 1981)

-- Federal agencies used contractors for work that should have been done by federal employees because the work involved basic management functions and should have been performed by federal employees to assure control over the direction of agency policies and programs.

-- In contrast, federal employees provided commercial services that contractors could have provided, in many cases at lower cost.

Use of Consultants By The Department of Justice (GGD-81-55, April 17, 1981)

-- The Department's litigative divisions awarded a majority of their contracts without competition.

-- The majority of the Department's Law Enforcement Assistance Administration contracts were awarded on a cost-plus-fixed-fee basis, which provided little incentive for contractors to minimize costs.

The Subcontracting Practices of Large Department of Energy Contractors Need to Be Improved (EMD-82-35, April 22, 1982)

We reviewed two major Energy contractors to determine their subcontracting practices and found that the contractors:

-- Engaged in subcontracting practices that prevented or limited competition.

-- Awarded subcontracts directly for Department program offices, allowing these offices to bypass federal and Department procurement regulations and policies.

-- Did not fully comply with federal and Department conflict of interest regulations.

-- Had not been required to follow federal and Department guidelines on the use of consultant-type contracts.

-- Had not established adequate controls to evaluate the utility of subcontractor work products and ensure that subcontractor efforts were not duplicative.

EPA's Use of Management Support Services (CED-82-36, March 9, 1982)

-- Most EPA program office requests for management support services to be procured under contract were not subject to agency procedures that would tighten management control of their use.

-- A limited definition of what constituted a consulting service was used, thus omitting a substantial number of consulting services contracts.

-- Contractors may have performed work that should have been done by federal employees, but we could not determine if the contractors' actions were improper because of the lack of criteria to distinguish between assistance and performance.

-- Eighty-eight percent of the management support services contracts were on a cost-plus-fixed-fee basis. Sixty percent were modified to increase costs, expand the scope of work, and/or extend the period of performance. Thirty percent were awarded sole-source.

-- Information indicated the existence of many potential organizational conflict of interest situations that could have diminished the contractors' ability to give impartial, objective advice.

-- Of the 30 management support services contracts that we reviewed in detail, we found 11 contracts for which work products either were not received or appeared to be of questionable value.

Improvements Needed in Evaluation of Cost Proposals and Technical Administration of Management Support Services Contracts (PLRD 82-50, March 10, 1982)

-- No documentation was available for 10 of 11 contract files to show how technical evaluators determined that labor costs and other direct costs proposed by the contractors were fair and reasonable. Technical contract administration was generally weak.

The U.S. Synthetic Fuels Corporation's Contracting With Individual Consultants (GAO/RCED-84-106, February 7, 1984)

For 10 individual consultant contracts, we found:

-- The cost of contracting for the 10 consultants was not compared with the cost of hiring permanent employees.

-- Conflict-of-interest provisions were not in two consultant contracts.

-- The Corporation did not demonstrate that the 10 consultants were uniquely qualified to do the contract services or were needed on a time-critical basis.

-- Contract files did not contain evaluations of six consultants' qualifications.

U.S. Synthetic Fuels Corporation's Contracting Policies and Practices for Consulting Services (GAO/RCED-85-162, August 15, 1985)

We reviewed 79 contracts of which 43 were awarded to individuals and 36 were awarded to firms. We found that:

-- Contracts with individual consultants were awarded on a sole-source basis without competition. Contracts with consulting firms were awarded on either a competitively negotiated basis or a noncompetitive basis.

-- Completion of written documentation for comparing the cost of the contract with the cost of hiring permanent employees was not required before contracts were awarded, and guidance was not provided for such comparisons.

United States Information Agency's Use of Consultant Services (GAO/NSAID-85-85, May 23, 1985)

The scope of this review was limited to 17 consultant contracts, and we found that:

-- Justification for the need of consultants was usually not well documented or was questionable. Seven of the 10 descriptions we reviewed were vague.

-- Most consultants were paid improperly; eight were overpaid and one was underpaid.

PERSONNEL PRACTICES: Use of Consultants and Experts in the Immediate Office of the Secretary, HHS (GAO/GGD-87-49BR, March 18, 1987)

We reviewed 29 official personnel folders of appointed consultants and experts and found that:

-- Descriptions of services to be done by the consultants and experts were very general, without enough explanation to show that the consultants and experts were needed.

GAO

United States
General Accounting Office
Washington, D.C. 20548

General Government Division

B-226126

June 1, 1988

The Honorable David Pryor
Chairman, Subcommittee on Federal Services,
Post Office, and Civil Service
Committee on Governmental Affairs
United States Senate

Dear Mr. Chairman:

This is in response to your request for our opinion regarding the status of a law requiring the Inspector General (IG) or comparable official at each executive agency to submit to Congress an evaluation of the agency's progress in establishing effective management controls and improving the accuracy and completeness of the information provided to the Federal Procurement Data System on contracts for consulting services. This statutory requirement currently is located at 31 U.S.C. § 1114 (1982).

We understand that some Inspectors General are not complying with the statute under the belief that the reporting requirement no longer exists. It is our view that the statutory requirement still is in effect since 31 U.S.C. § 1114 has not been repealed. The following is a summary of legislation containing the IG reporting requirement, along with an analysis of what has taken place in the past that led to the current status of the legislation.

History of Legislation

The current IG reporting requirement has its basis in a 1980 statute establishing a Federal Procurement Data System (FPDS) reporting requirement for fiscal year 1982. Section 307(b) of the Supplemental Appropriations and Rescission Act, 1980, approved, July 8, 1980, Public Law No. 96-304, 94 Stat. 928, provided that:

> "Effective October 1, 1981, for application in fiscal year 1982, the Inspector General of . . . [an executive] department, agency, or

> establishment, or comparable official . . . shall submit to the Congress along with the agency's budget justification, an evaluation of the agency's progress to institute effective management controls and improve the accuracy and completeness of the data provided to the Federal Procurement Data System regarding consultant service contractual arrangements."

This provision was a temporary measure that by its terms was to be applied only for fiscal year 1982.

During the same year, Congress passed the Department of Transportation and Related Agencies Appropriation Act, 1981, approved October 9, 1980, Public Law No. 96-400. Section 323(c) of Public Law No. 96-400, 94 Stat. 1699, was the first of a series of appropriation act provisions containing the IG reporting requirement with no time limitation on its application. Section 323(c) began "For fiscal year 1982 and thereafter," followed by the same language contained in section 307(b) of Public Law No. 96-304, supra. Congress then passed identical provisions in a series of appropriation acts: Public Law 96-436, § 126, 94 Stat. 1869 (October 13, 1980); Public Law 96-514, § 309, 94 Stat. 2984 (December 12, 1980); Public Law 96-528, § 616, 94 Stat. 3117 (December 15, 1980); Public Law 97-102, § 318, 95 Stat. 1461 (December 23, 1981); and Public Law 97-369, § 318, 96 Stat. 1783 (December 18, 1982). Based on the provisions that had been enacted through 1980, the language of the IG reporting requirement was included in title 31 of the United States Code as 31 U.S.C. § 28(b) (1976 ed., Supp IV 1980).

On September 13, 1982, Congress enacted Public Law 97-258, revising, codifying and enacting into positive law title 31 of the United States Code. The purpose of the codification was to "restate in comprehensive form, without substantive change, certain general and permanent laws related to money and finance and to enact those laws as title 31, United States Code." H. R. Rep. No. 651, 97th Cong., 2d Sess. 1 (1982). Included in this legislation as 31 U.S.C. § 1114(b) was the IG reporting requirement, as follows:

> "The Inspector General or comparable official of each agency shall submit to Congress each year, with the budget justification for the agency, an evaluation of the progress of the agency in establishing effective management controls and improving the accuracy and completeness of the information provided to the Federal Procurement

B-226126

Data System on contracts for consulting services. If the agency does not have an Inspector General or comparable official, the head of the agency or officer or employee designated by the head of the agency shall submit the evaluation."

The Codification Act, 96 Stat. 1083, repealed all of the appropriation provisions referred to above, with the exception of Public Law 97-369, § 318, which had not yet been enacted. The Congressional Reports Elimination Act of 1982 was then enacted on December 21, 1982, Public Law 97-375, 96 Stat. 1819. Section 101 of this Act repealed two of the appropriation act provisions referred to above--Public Law 96-436, § 126, and Public Law 96-528, § 616. The Reports Elimination Act cites section 28 of title 31 as the U.S. Code reference for these two appropriation provisions. The Act does not mention section 1114 (b) of title 31.

The House committee report on the Reports Elimination Act, H.R. Rep. No. 97-804, 97th Cong., 2d Sess. 5 (1982), states that section 101 "[r]epeals reporting requirement of the Inspector General or comparable official requiring an evaluation of an agency's progress" with regard to information provided to the FPDS. The House report also notes that "[t]his is one of six similar provisions for reporting requirements contained in six different appropriations measures." Id.

Analysis/Conclusion

Based on the historical development of the statutes containing the IG reporting requirement, it appears that the provision enacted in Public Law 97-258 and located in section 1114 of title 31 is current law. Congress enacted this provision as part of the codification of title 31 in September 1982 and has not repealed it. At the time of enactment of the Congressional Reports Elimination Act, the two IG reporting provisions "repealed" by the act already had been repealed with the revision of title 31. While it remains unclear exactly what Congress intended when it enacted the Reports Elimination Act, it is clear that the Elimination Act did not repeal 31 U.S.C. § 1114. As such, the IG reporting requirement remains in effect.

If you have any questions, please contact me on 275-5074.

Sincerely yours,

Bernard L. Ungar

Bernard L. Ungar
Associate Director

EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

STATEMENT OF
JOSEPH R. WRIGHT, JR.
DEPUTY DIRECTOR
OFFICE OF MANAGEMENT AND BUDGET
BEFORE THE
SUBCOMMITTEE ON FEDERAL SERVICES,
POST OFFICE AND CIVIL SERVICE
OF THE
COMMITTEE ON GOVERNMENTAL AFFAIRS
UNITED STATES SENATE
JUNE 13, 1988

Mr. Chairman and Members of the Subcommittee:

I appreciate the opportunity to testify today on the role of the Office of Management and Budget (OMB) in establishing guidelines for the Executive Branch to follow in the area of consultant services.

As you know, Mr. Chairman, both the Legislative and Executive Branches have raised concerns over the years about the Government's use of consultants. Congressional hearings, as well as reports by the General Accounting Office (GAO) and the President's former Cabinet Council on Management and Administration (CCMA) have all resulted in expressions of concern on the way in which the government uses consulting services.

OMB has tried to improve this situation by first setting out policies on the use of consultants in the late 1970's. This past January we issued newly revised guidelines in the form of OMB Circular No. A-120 on advisory and assistance services. I recognize that it has taken much too long to issue these guidelines. However, this has not been an easy area to establish clear cut policies.

We support your inquiry and will provide whatever help we can to you, and to the GAO in its current review of the government's use of consultants. I have attached to my testimony a brief summary of the evolution of OMB Circular No. A-120, Guidelines for the Use of Advisory and Assistance Services.

I would like to first give you my views on some of the issues associated with consultant services and then address the specific questions you asked in your letter of invitation. In addition to OMB's bulletin and circular, the 1984 CCMA study was an attempt by the Administration to come to grips with this issue. The study revealed that in spite of previous efforts to better manage and control these services, many problems remained. For example, the agencies followed no consistent approach in reporting funds for these activities to the Federal Procurement Data System. Moreover, the amount of consultant services in use by the Government

was seriously understated, since funds for studies and analyses, and management support and engineering services were not covered by existing guidelines. Another problem cited was that about 40 percent of consultant contracts were awarded on a noncompetitive basis and large amounts of funding went for modifications to ongoing contracts. In one area, R&D engineering and operational systems development, 72 percent of the contracts were awarded on a noncompetitive basis, while 68 percent of the total contract dollars were for modifications or follow-on work.

From my review of more recent data on competitive versus noncompetitive contracts and the percentage of follow-on contracts, even with the passage of the Competition and Contracting Act in 1984, I do not see much progress. For example, in 1987, 50 percent of consultant contracts were noncompetitive, higher than the 40 percent figure shown in the CCMA study. In addition, over two-thirds of the contract awards in 1987 were for modifications to existing contracts, comparable to the results shown for R&D in the CCMA analysis.

From Fiscal Year 1979 to Fiscal Year 1987, using the then existing definition of consulting services, contract obligations reported to the Federal Procurement Data System (FPDS) dropped from $416 million to $243 million. Now that the coverage has been broadened to include other related

services such as special studies, analyses and evaluation; professional and management support services; and engineering and technical services, the funding associated with "advisory and assistance services" will appear much larger. For example, using the categories for these services that were recommended by the CCMA, the contract dollars range from about $12 billion in Fiscal Year 1979 to roughly $26 billion in Fiscal Year 1987. Given the problems we have had in getting consistent agency reports on these services as well as the limitations of the Federal Procurement Data System tracking mechanism, I would question even the accuracy of these figures. They may well include funds for more than just advisory and assistance services.

The size of these numbers alone, however, does not mean that the level of funding is inappropriate. In fact in some areas even more money ought to be spent. For example, this Administration has been making a concerted effort under the President's Reform 88 program to rely more on the private sector to provide commercial-type services. On average, savings on the order of thirty percent result when Government agencies compare the costs of in-house commercial-type activities with those provided by industry. Unfortunately, Congress has placed so many restrictions on this process--for example, preventing medical support services at the Veterans Administration from being studied or engineering

support services at the Department of the Interior -- that many of these savings cannot be achieved. These are clearly areas where more could be done. Today, there are some 37 Congressional prohibitions on privatization and contracting initiatives.

In other areas, we fail to manage consultant services well or we use consultants for studies that appear to be of little or no benefit to the government. For example, separate divisions of one agency had consultants under completely separate contracts performing the same type of work at different locations. If these were placed under one master contract, the agency would have been able to manage and control the services much more efficiently. We need to do a better job of ensuring that these kinds of problems do not occur. I plan to give you a list in 90 days of those areas of consulting services that need a more careful review, and where I believe savings can be made.

But Mr. Chairman, let me give you a summary of where we are. We have tried to establish good guidelines, but we still do not have good information on what is being spent for what kinds of services. As a result, it is very difficult to manage without that kind of information. It has taken us six years to upgrade our financial management services and we need your help in getting the funding to finish the job.

Certainly, consulting services deserve more attention, and we are willing to go ahead and make the commitment to improve the accounting and management information systems so that we can be confident that we are doing a better job in managing this area.

In your May 11, 1988 invitation letter, Mr. Chairman, you asked me to address several specific questions in my testimony. My answers to these questions are as follows:

Does OMB think agencies are adequately managing consultants?

I believe the agencies have clearer guidelines today to do a better job of managing their consultant services. Consulting awards are going through additional layers of review and more detailed guidance is available to see that past problems are reduced. However, as I pointed out earlier, I do not see much progress, particularly in terms of increased competition. The competitive - noncompetitive mix has not changed appreciably, and follow-on contracts constitute a higher percentage of contracts today than they did in 1984. Since the new Circular was issued only six months ago, however, I believe some more time is needed to make a full assessment of its effectiveness.

What are the problems that are occurring in this area?

Mr. Chairman, over the years, the GAO and others have described numerous problems associated with the management of consultant services. Those problems included:

(1) contractors performing functions that were governmental in nature or performing services of questionable utility;

(2) some consultant contracts that were "never-ending", because they were continually being modified and extended;

(3) an inability to identify funds for consultant services in agencies' budgets;

(4) insufficient competition in the award process;

(5) a too narrow definition of "consulting services", providing too much leeway for contracting officers; and

(6) inadequate reporting from the Federal Procurement Data System (FPDS), mainly because the system would only record the primary purpose for each contract. (Even sizable funding for consultants would not show up, so long as the primary purpose of the contract was something else).

Other complaints were that consultant arrangements were being used to overcome personnel ceilings, pay limitations, or competitive employment procedures, and that "revolving door" abuses occurred, with former government employees favored to receive consultant arrangements.

I believe that many of the problems have been addressed with the issuance of the revised Circular. For example, contracts for advisory and assistance services can not exceed five years without being reviewed for compliance with the Circular; there is greater visibility for these types of efforts since coverage has been broadened to include other related services; agencies must designate a single official to be responsible for assuring compliance with the Circular; and agencies must establish a management information or accounting system to monitor and report on the use of these services.

What was the purpose in revising the Circular?

The Circular was revised largely to comply with the major recommendations contained in the 1984 CCMA study. As I mentioned previously, the CCMA study revealed that consultants were actually providing a broad range of related services and recommended that all of these be more closely

controlled by the agencies. The CCMA study also found that contracts for a large percentage of these services were awarded on a non-competitive basis or tended to be extensions to existing contracts. Moreover, while all agencies had some procedures in place to monitor these services, agency efforts were not very effective.

How many consultants did the Federal government use in FY 1986 and FY 1987?

There is no government-wide system for identifying all of the consultants employed by the various agencies. While agencies collect information on consultant service funding levels under contract arrangements, they do not maintain data on the number of consultants used. However, the Office of Personnel Management's Central Personnel Data File (CPDF) provides information on the number of government employees under those statutes permitting the appointment of experts and consultants. These totalled 4,403 and 5,473 in Fiscal Years 1986 and 1987, respectively. The General Services Administration's data on advisory committees reveals 24,600 advisory committee members in FY 1986 and 19,837 in FY 1987.

Does OMB have particular goals/limits for the number of consultants particular agencies should use?

OMB does not provide particular goals or place limits on the number of consultants that agencies can use in the procurement of services. Our policy is that the prudent use of these services is a legitimate way for agencies to obtain outside points of view. However, agencies should not, among other things, use these services to undermine personnel ceilings, provide special preferences to former government employees or influence legislation. In our view, if agencies comply with the management controls set forth in the Circular, the number of advisory and assistance services awards will be managed effectively.

Does OMB have any guidance for the payment of consultants?

OMB has not issued any guidance on the hourly rates to be paid consultants under contract arrangements. The Federal Acquisition Regulation requires contracts for services to be awarded on a competitive basis through sealed bidding or competitive proposals. Therefore the competitive market place sets the rates consultants receive for services rendered. However, the General Services Administration (41 CFR 101-6.1033) does issue specific guidelines for compensation of advisory committee members, staff, and consultants.

Finally, Mr. Chairman, you asked what are OMB's plans to

ensure agency compliance with OMB Circular No. A- 120. As I mentioned previously, even defining what should be considered consultant services has been and continues to be a problem. We need to do a much better job of seeing that the agencies consistently use the new guidelines included in the revised circular so that we can be confident that these services are being accurately described and their costs accurately reported. As you know, this lack of good management and budget information is not unique to this area. I plan to do the following to get better data and also to highlight how well the agencies are using their consulting services:

1) We have requested in the President's FY 1989 Budget funding for a consolidated budget and financial information system to be housed in OMB. This new system will better meet the information needs of both the Executive and Legislative Branches with not only good budget information from all of the agencies but also consistent management information as well. This would be an ideal mechanism for tracking and monitoring agency budget and accounting data on advisory and assistance services. I would appreciate any help you could give us on getting this system funded and set up;

2) OMB will require agencies to include, in their annual report to the President under the Federal

Managers' Financial Integrity Act a full update of their compliance with Circular A-120, with particular attention to the quality of the financial data that they provide to the Federal Procurement Data System;

3) In addition, I will include a section in the President's annual report to Congress, Management of the United States Government, that will address agency progress in managing and controlling advisory and assistance services; and,

4) Finally, as Chairman of the President's Council on Integrity and Efficiency, I will see that the Inspectors General carry out their responsibilities under the Money and Finance Act of 1982 (P.L. 97-258). Specifically, I will ask them to:

- determine whether the agencies have effectively put in place the management controls required by Circular No. A- 120;
- assess the accuracy and completeness of data provided to the Federal Procurement Data System; and,
- review a sample of contracts to see that they are appropriately justified and meet the criteria set by the Circular.

In summary, we support your inquiry, Mr. Chairman, and will do whatever we can to try and improve the way we manage advisory and assistance services.

I will be pleased to answer any questions you may have.

Attachment 1

Administrative History of OMB Circular A-120

The following provides a summary of the evolution of OMB Circular A-120.

1. OMB Bulletin No. 78-11, May 5, 1978 - The bulletin established guidelines for agencies to follow in determining and controlling the use of consulting services.

2. OMB Circular A-120, April 14, 1980 - The Circular provided permanent guidance for the control of consulting services and superceded OMB Bulletin 78-11.

3. Memorandum to Heads of Selected Executive Departments and Agencies, dated July 2, 1980, "Management Control of Consulting Service Contracts and Improvement of Agency Procurement Practices" - This memorandum requested selected agencies to submit a proposal for a management control system that would significantly improve management controls and practices in the procurement of consulting services.

4. OMB Model Control System for Consulting and Related Services, January 15, 1982 - The Model Control System was non-mandatory guidance for agencies to use in designing their control systems.

5. CCMA Study on Consulting Services, February 1984 - The study was done by the Cabinet Council on Management and Administration to address the problems in the way the Government awards, manages, and uses consulting service contracts. The task team defined consulting services, estimated their costs, reviewed existing controls on their use, and proposed reforms.

6. Congress enacted P.L. 99-145 (the 1986 Defense Authorization Act), November 8, 1985 - This law required the Secretary of Defense to establish an accounting system to control expenditures for contracted advisory and assistance services. In January 1986, the Department of Defense issued Directive 4205.2 which contained guidance that was used as a basis to revise OMB Circular No. A-120.

7. OMB Circular No. A-120, January 4, 1988 - The revised Circular establishes policy, assigns responsibilities, and sets guidelines to be followed by the agencies in determining and controlling the use of advisory and

assistance services. The major features of the new Circular include:

(a) an expansion of the coverage from consulting services to other related advisory and assistance services such as the conduct of studies, analyses, and evaluation; management and professional support services, and engineering and technical services;

(b) a statement that activities reviewed in accordance with OMB Circular A-76 were exempt from the provisions of A-120;

(c) the requirement that each agency designate a single official to be responsible and accountable for assuring compliance with the provisions of the Circular; and

(d) the need for agencies to establish a management information or accounting system (if one did not already exist) to effectively monitor and report on these services.

United States
Office of
Personnel Management
Washington, D.C. 20415

AUG 31 1988

In Reply Refer To

Your Reference

Honorable Ted Stevens
United States Senate
Washington, DC 20510

Dear Senator Stevens:

Claudia Cooley asked me to answer the two questions on experts and consultants in your letter following her testimony before members of the Committee on Governmental Affairs. We appreciate your asking for our thoughts in this very broad area and we are glad to provide whatever insights we can.

1. It is my understanding that a traditional means for appointing agency heads and other executive level employees pending appropriate clearances has been the "consultant or expert" appointment. This type of appointment violates the law but appears to be the only vehicle available to the agencies in such a situation. Agencies assure us that such appointees are restricted from access to classified information and are subject to other such prohibitions pending the completion of necessary security and appointment clearances. These "consultant or expert" appointments add to the total number of such appointments and make the overall consultant situation look worse than it is.

Is OPM aware of this situation? Should we be developing a special appointing authority to accommodate such "interim appointments" pending final security and other clearances?

Answer. The President is responsible for appointing the secretaries of departments, deputy secretaries, under secretaries, and similar positions at the upper executive levels which generally require the advice and consent of the Senate. The Vacancies Act (5 U.S.C. 3345-3349) and, in many instances, the enabling statutes for individual departments make some provision for filling those positions on a temporary or acting basis for a limited time period under certain conditions.

The Office of Personnel Management has no role to play in filling positions at those levels and, accordingly, is not in a position to comment on the need to create a new "interim" appointment authority.

It is possible that an agency might elect to bring on board a nominee to work in another capacity while his or her nomination is pending clearance or confirmation. If the work calls for expert or consultant duties, and the individual is qualified, an agency may make an expert or consultant appointment. We have no information to indicate to what extent agencies may be making expert or consultant appointments in that situation because by law agencies hire all experts and consultants directly rather than through our competitive civil service employment system (5 U.S.C. 3109).

Similarly, if the work in another capacity to be assigned a nominee pending clearance or confirmation calls for policy-making or managerial duties appropriate to the Senior Executive Service (SES), an agency may request our approval to make a noncareer or limited term or limited emergency appointment. By law, the expert and consultant authority may not be used to fill an SES position.

Concerning the size of the total expert and consultant work force, our figures show the number hired (appointed) by agencies as Federal employees has dropped significantly since the 1970's and for the last several years generally has stayed below 6,000 serving at any one time. Our oversight of agencies' activities has turned up an occasional problem, but on the whole, the evidence we have indicates agencies are using appointed experts and consultants within the scope of their statutory authority.

2. Other than the consultant or expert authority, what mechanisms are available to agencies to appoint temporary expert help? If an agency had temporary appointment authority through GS 15, and more flexibility to pay at the full range of the pay scale, would the use and abuse of consultant/expert appointments stop, or at least be greatly curtailed?

Answer. As noted elsewhere, our oversight of agencies' activities has turned up an occasional problem, but on the whole, the evidence we have indicates agencies are using the individuals they appoint as experts and consultants properly within the scope of their statutory authority.

For background, the statutory authority agencies have long used is 5 U.S.C. 3109. It expressly authorizes agencies to appoint individual experts and consultants as Federal employees for only brief (not to exceed 1 year) or intermittent service. To enable agencies to hire them quickly with little paperwork, the statute specifically excepts those appointments from the examination and qualification requirements of the competitive civil service, position classification, and the General Schedule pay laws.

To be sure, there are some other more general appointment authorities which an agency might adapt to bring in special temporary help. If the duties of the position are at the Senior Executive Service (SES) level, agencies may make SES limited emergency or limited term appointments for temporary help in an emergency or for a special project, subject to OPM approval of the appointment authority.

For work below the SES level, agencies may make temporary appointments to all types of positions at GS 15 and below, but they would be subject to the regular examination, job classification, and pay laws. While we can grant exceptions to competitive examination requirements for good cause, we have no general authority to make exceptions to the classification and pay laws.

Sincerely,

C. J. Smith

Curtis J. Smith
Associate Director
for Career Entry

GOVERNMENT CONSULTANTS

How Much Are We Spending?

	FY 86	FY 87
Reported by Agencies	$233 million	$243 million
Subcommittee Estimate*	$23 billion	$25.6 billion

*Derived from Cabinet Council of Management and Administration Study on Consultants using data from the Federal Procurement Data System.

Congressional Research Service
The Library of Congress

Washington, D.C. 20540

May 11, 1988

To: Senate Governmental Affairs Committee
Att'n: Louis Light

From: American Law Division

Subject: Has 31 U.S.C. §1114(b) Been Repealed?

This memorandum is written in response to your request of April 29, 1988, concerning the above. We have examined the Treasury memorandum to the files concluding that the Office of Inspector General is no longer required to make a report for submission to Congress, evaluating the agency's progress in instituting effective management controls and improving the accuracy and completeness of data provided to the Federal Procurement Data System regarding consultant service contractual arrangements. That conclusion was based on the "repeal" of §616(b) of Public Law 96-528, 94 Stat. 928, which had required such a report for fiscal year 1982 and thereafter. Section 616(b), the memo notes, was repealed by the "Congressional Reports Elimination Act of 1982," Public Law 97-375, 96 Stat. 1819.

In our view the reasoning and conclusions in the memorandum are suspect. First, the memorandum relies on the repeal of §616(b) of Public Law 96-528 by the "Congressional Reports Elimination Act of 1982." In fact, however, §616(b) had already been repealed by Congress when it enacted the revision and codification of title 31 of the United States Code. (Public Law 97-258, §5, 96 Stat. 1083). In that same measure Congress enacted into positive law

31 U.S.C. §1114(b), a provision imposing the same reporting requirement. (§1, 96 Stat. 916). The latter provision does not appear to have been repealed by the "Congressional Reports Elimination Act."

Second, we have examined United States Code, 1982 ed., and the 1985 Supplement. The official U.S. Code contains the reporting provision codified at 31 U.S.C §1114(b), and there is nothing to suggest that the requirement had been repealed by laws enacted through the period covered by that supplement, that is through the 99th Congress, 1st Session. In addition we examined unofficial versions of the code, the U.S.C.S. and the U.S.C.A., and their cumulative supplements, which covered laws enacted through the 99th Congress, 2nd Session. Again both versions contained §1114(b), and there was no evidence suggesting repeal. We also checked the table of amendments and repeals contained in the March 1988 United States Code Congressional and Administrative News (No. 12C). That table purportedly includes laws enacted during the 100th Congress, 1st Session. There is nothing in that table suggesting that §1114(b) of title 31 was amended or repealed during the first session of the 100th Congress.

Third, the Treasury memorandum cites House Report 97-804 in apparent support of its conclusion that it no longer is required to make reports on consultant service contracts. The report says that the purpose of the enactment is to "eliminate, consolidate, simplify, or reduce some 77 recurring congressionally-mandated reporting requirements." (H. Rep. No. 97-804 at 1). In its section by section analysis of the measure it notes that six similar provisions have been adopted requiring the type of report

in question and yet it only repeals two. (Id. at 5-6). This suggests that the measure in this case was aimed at reducing duplication rather than at elimination of the reporting requirement.

In sum, we have found that the Congressional Reports Elimination Act of 1982 did not repeal 31 U.S.C. §1114(b), which had been codified at the time. We have found nothing to indicate that it has been repealed by that or any other congressional enactment. Further, the House Report on the 1982 enactment suggests that the congressional purpose, insofar as this particular reporting requirement was concerned, may have been the elimination of duplicate requirements rather than their total elimination.

/s/ Thomas B. Risy

Thomas B. Risy
Legislative Attorney

CONSULTANT TERMINOLOGY AND DEFINITIONS

OMB Circular A-120--The OMB document which gives direction to federal agencies for the use of both appointed and procured consultants; revised in January 1988.

Federal Procurement Data Center--The federal government's general repository of showing all government contracts over $25,000.

Central Personnel Data File--The OPM statistical device which maintains information on federal agencies' use of appointed (as opposed to procured) consultants.

5 USC 3109--the statute which governs OPM's administration of appointed consultants.

31 USC 1114--The reporting statute which requires Inspector Generals to conduct annual examinations of consultant contracting. You have found that 10 of 19 IG's are not complying with this law.

Cabinet Council on Management and Administration (Report)--An administration group which performed a good study in 1984 which demonstrated that the whole consultant area was out of control and needed reform. This report was influential in the revision of OMB Circular A-120.

President's Council on Integrity and Efficiency--an IG organization, chaired by Joseph Wright, which was created by President Reagan to coordinate IG activity and fight waste, fraud, and abuse.

Office of Federal Procurement Policy--within the OMB, created to improve the economy, efficiency, and effectiveness of the procurement process by providing overall direction of procurement policies.

Federal Acquisition Regulation (FAR)--the government-wide procurement regulations.

Consultant Reform and Disclosure Act--Previous David Pryor legislation, introduced in both 97th and 98th Congress; no action was taken on these bills by the Governmental Affairs Committee

Procured/contract consultants--governed by OMB A-120

appointed, personnel OPM consultants--governed by 5 USC 3109

EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

January 4, 1988

Circular No. A-120

TO THE HEADS OF EXECUTIVE DEPARTMENTS AND ESTABLISHMENTS

SUBJECT: Guidelines for the Use of Advisory and Assistance Services

1. Purpose. This circular establishes policy, assigns responsibilities, and sets guidelines to be followed by executive branch agencies in determining and controlling the appropriate use of advisory and assistance services obtained from individuals and organizations. This circular supersedes OMB Circular No. A-120 "Guidelines for the Use of Consulting Services," dated April 14, 1980.

2. Background. OMB Bulletin No. 78-11, issued May 5, 1978, first required agencies to apply extra controls to the procurement of consultant services. Circular A-120, dated April 14, 1980, provided permanent guidance in lieu of the interim guidance provided by the Bulletin. A Model Control System for consulting services was issued on January 15, 1982, to provide further guidance, which was non-mandatory.

In 1984, the Cabinet Council on Management and Administration (CCMA) completed a study of consulting services to estimate expenditures, review definitions and existing controls, and propose reforms. The study resulted from continuing reports, by GAO and other agencies, of problems in the way the Government manages and uses consulting services.

This revision of Circular A-120 is being issued (1) to expand the coverage of the circular; (2) to mandate controls for the management and reporting of advisory and assistance services; and (3) to clarify the relationship between Circular A-120 and OMB Circular No. A-76 (Revised) "Performance of Commercial Activities," issued August 4, 1983.

3. Relationship to OMB Circular A-76. Activities that are reviewed in accordance with the A-76 process are exempt from the provisions of this circular except that when the functions performed by the contractor meet the definition of advisory and assistance services set forth in this circular, the contracting action must be reported in accordance with Sections 8.A. and 9.A. below. When A-76 contracts are renewed, they are also exempt from the provisions of this circular.

4. Coverage. The provisions of this circular apply to advisory and assistance services obtained by the following arrangements:

A. Personnel appointment;

B. Procurement contract; and

C. Advisory committee membership.

5. Definition. Advisory and Assistance Services are those services acquired from non-governmental sources by contract or by personnel appointment to support or improve agency policy development, decision-making, management, and administration, or to support or improve the operation of management systems. Such services may take the form of information, advice, opinions, alternatives, conclusions, recommendations, training, and direct assistance. Advisory and assistance services include consultant services provided by individuals, as defined in the Federal Personnel Manual, Chapter 304.

A. Advisory and assistance services include activities having any of the following characteristics:

(1) Individual Experts and Consultants. Individual experts and consultants are persons possessing special, current knowledge or skill which may be combined with extensive operational experience. This enables them to provide information, opinions, advice, or recommendations to enhance understanding of complex issues or to improve the quality and timeliness of policy development or decision-making. These named individuals may either work independently or be assembled into panels, commissions, or committees.

(2) Studies, Analyses, and Evaluations. Studies, analyses, and evaluations are organized, analytic assessments needed to provide the insights necessary for understanding complex issues or improving policy development or decision-making. These analytic efforts result in formal, structured documents containing data or leading to conclusions and/or recommendations. This summary description is operationally defined by the following criteria:

a. Objective: to enhance understanding of complex issues or to improve the quality and timeliness of agency policy development or decision-making by providing new insights into, understanding of, alternative solutions to, or recommendations on agency policy and program issues, through the application of fact finding, analysis, and evaluation.

b. Areas of application: all subjects, issues, or problems involving policy development or decision-making in the agency. These may involve concepts, organizations, programs and other systems, and the application of such systems.

c. Outputs: outputs are formal, structured documents containing or leading to conclusions and/or recommendations. Data bases, models, methodologies, and related software created in support of a study, analysis, or evaluation are to be considered part of the overall study effort.

d. Exclusions and exemptions: a complete list of exclusions and exemptions from the provisions of this circular is attached.

(3) Management and Professional Support Services. Management and professional support services take the form of advice, training, or direct assistance for organizations to ensure more efficient or effective operations of managerial, administrative, or related systems. This summary description is operationally defined in terms of the following criteria:

a. Objective: to ensure more efficient or effective operation of management support or related systems by providing advice, training, or direct assistance associated with the design or operation of such systems.

b. Areas of application: management support or related systems such as program management, project monitoring and reporting, data collection, logistics management, budgeting, accounting, auditing, personnel management, paperwork management, records management, space management,and public relations.

c. Outputs: services in the form of information, opinions, advice, training, or direct assistance that lead to the improved design or operation of managerial, administrative, or related systems. This does not include training which maintains skills necessary for normal operations. Written reports are normally incidental to the performance of the service.

d. Exclusions and exemptions: a complete list of exclusions and exemptions from the provisions of this circular is attached.

(4) Engineering and Technical Services. Engineering and technical services (technical representatives) take the form of advice, training, or under unusual circumstances, direct assistance to ensure more efficient or effective operation or maintenance of existing platforms, weapon systems, related systems, and associated software. All engineering and technical services provided prior to final Government acceptance of a

complete "hardware system" are part of the normal development, production, and procurement processes and do not fall within the meaning of this category. Engineering and technical services provided after final Government acceptance of a complete hardware system are within the meaning of this category except where they are procured to increase the original design performance capabilities of existing or new systems or where they are integral to the operational support of a deployed system and have been formally reviewed and approved in the acquisition planning process.

6. Exclusions. The attachment lists the Government programs and activities that are excluded from the provisions of this circular unless agencies decide to include them (see Section 8A below).

7. Policy.

A. When essential to the mission of the agency, the proper use of advisory and assistance services is a legitimate way to:

(1) obtain outside points of view to avoid too limited judgment on significant issues;

(2) obtain advice regarding developments in industry, university or foundation research;

(3) obtain the opinions, special knowledge, or skills of noted experts whose national or international prestige can contribute to the success of important projects;

(4) enhance the understanding of, and develop alternative solutions to, complex issues;

(5) support and improve the operation of organizations;

(6) ensure the more efficient or effective operation of managerial or hardware systems; and

(7) secure citizen advisory participation in developing or implementing Government programs that, by their nature or by statutory provision, call for such participation.

B. Advisory and assistance services shall not be:

(1) used in performing work of a policy, decision-making, or managerial nature which is the direct responsibility of agency officials;

(2) used to bypass or undermine personnel ceilings, pay limitations, or competitive employment procedures;

(3) awarded on a preferential basis to former Government employees;

(4) used under any circumstances specifically to aid in influencing or enacting legislation;

(5) procured through grants and cooperative agreements; and

(6) obtained for professional or technical advice which is readily available within the agency or another Federal agency, except when the contract is entered into pursuant to the procedures and provisions of Circular A-76.

C. No contracts for advisory and assistance services may be continued longer than five years without being reviewed for continued compliance with this circular.

8. Management Controls.

A. Each agency will assure that it maintains an accounting or information system which effectively monitors and reports advisory and assistance service activities.

B. Each agency's management control system for advisory and assistance services shall at a minimum comply with the Federal Acquisition Regulation. Agencies are encouraged to apply the same control system to other procurements which in their judgment require similar management attention, notwithstanding the exclusion of those functions or programs from the provisions of this circular.

C. Each agency will assure that for all advisory and assistance service arrangements:

(1) the elements of the management control system required by this circular have been observed, and all procurements under this circular are administered in accordance with the requirements of the Federal Acquisition Regulation;

(2) as prescribed by the Federal Acquisition Regulation, written approval of all advisory and assistance services arrangements will be required at a level above the organization sponsoring the activity. Additionally, written approval for all advisory and assistance service arrangements during the fourth fiscal quarter will be required at the second level or higher above the organization sponsoring the activity;

(3) every requirement is appropriate and fully justified in writing. Such justification will provide a statement of need and will certify that such services do not unnecessarily duplicate any previously performed work or services;

(4) work statements are specific, complete, and specify a fixed period of performance for the service to be provided;

(5) acquisition of advisory and assistance services conform to the Competition in Contracting Act of 1984;

(6) appropriate disclosure is required of, and warning provisions are given to, the performer(s) to avoid conflict of interest;

(7) advisory and assistance service arrangements are properly administered and monitored to ensure that performance is satisfactory;

(8) the service is properly evaluated at the conclusion of the arrangement to assess its utility to the agency and the performance of the contractor; and

(9) to the extent practicable, contracts for these services require a written report. Such reports typically would document the services delivered and may, in part, take the form of software packages.

D. Delegations of Authority.

(1) Each agency head shall designate a single official reporting directly to him or her who shall be responsible and accountable for assuring that the acquisition of advisory and assistance services meets the provisions contained in this circular. The single official shall have minimum responsibility for the procurement of such services.

(2) Each agency will establish specific levels of delegation of authority to approve the need for advisory and assistance services based on the policy and guidelines contained in this circular. The senior official shall review each advisory and assistance services request which exceeds an amount to be determined by the agency.

E. Policy and procedures governing advisory committees and their membership as well as the procurement of advisory and assistance services are contained in General Services Administration regulations, 41 CFR, Part 101-6.

F. The Federal Personnel Manual, Chapter 304, governs policy and procedures regarding personnel appointments.

G. The Federal Acquisition Regulation governs policy and procedures regarding contracts.

9. Data Requirements.

A. Contracted advisory and assistance services shall be reported to the Federal Procurement Data System (FPDS) in accordance with the instructions in the FPDS Reporting Manual.

B. Contract actions of $25,000 or less reported on the Summary Contract Action Report ($25,000 or less) (SF 281) are not covered by this reporting requirement.

C. The following data systems will continue to provide information on advisory and assistance service arrangements within the executive branch:

(1) Central Personnel Data File (CPDF), operated by the Office of Personnel Management, provides data on personnel appointments, segregating advisors, experts, and advisory committee members.

(2) The Federal Procurement Data System (FPDS) provides data on contract arrangements that are monitored by the management control system required by Section 8 of this circular.

(3) Advisory committee data is provided in accordance with Section 2 of Executive Order No. 12024 to fulfill the requirements of Section 6(c) of the Federal Advisory Committee Act, as amended (Public Law 92-463, 5 U.S.C., App.).

10. Effective Date. This circular is effective immediately.

11. Inquiries. All questions or inquiries should be submitted to the Office of Management Budget. Telephone number (202) 395-6903.

James C. Miller III
Director

Attachment

ATTACHMENT

EXCLUSIONS

I. The following activities are excluded from the purview of Circular A-120.

1. Activities that are reviewed in accordance with the A-76 process. (Such activities must be reported in accordance with Sections 8.A and 9.A.)

2. Architectural and engineering services of construction and construction management services.

3. ADP/Telecommunications may be excluded if such functions and related services are controlled in accordance with 41 CFR 201, the Federal Information Resource Management Regulations.

4. Research on theoretical mathematics and basic medical, biological, physical, social, psychological or other phenomena.

5. Engineering studies related to specific physical or performance characteristics of existing or proposed systems.

6. The day-to-day operation of facilities (e.g., the Johnson Space Center and related facilities) and functions (e.g., ADP operations, building maintenance, etc.).

7. Government-owned, contractor operated facilities (GOCOs) (e.g., Oak Ridge National Laboratory, the Holstan Army Ammunition Plant in Kingsport, Tennessee). However, any contract for advisory and assistance services other than the basic contract for operation and management of a GOCO shall come under the provisions of this circular.

8. Clinical medicine.

9. Those support services of a managerial or administrative nature performed as a simultaneous part of, and non-separable from, specific development, production, or operational support activities. In this context, non-separable means that the managerial or administrative systems in question (e.g., sub-contractor monitoring or configuration control) cannot reasonably be operated by anyone other than the designer or producer of the end-item hardware.

10. Contracts entered into in furtherance of statutorily mandated advisory committees.

11. Initial training, training aids, and technical documentation acquired as an integral part of the lease or purchase of equipment.

12. Routine maintenance of equipment, routine administrative services (e.g., mail, reproduction, telephone), printing services, and direct advertising (media) costs.

13. Auctioneers, realty-brokers, appraisers, and surveyors.

II. The following programs are excluded from the purview of Circular A-120.

1. The National Foreign Intelligence Program (NFIP).

2. The General Defense Intelligence Program (GDIP).

3. Tactical Intelligence and Related Activities (TIARA).

4. Foreign Military Sales.

Congressional Research Service
The Library of Congress

Washington, D.C. 20540

Consultants in the Federal System

A Report Prepared at the Request of the
Subcommittee on Federal Services, Post Office, and Civil Service
Senate Committee on Governmental Affairs

Sharon S. Gressle
Analyst in American National Government
Government Division
June 13, 1988

CONSULTANTS IN THE FEDERAL SYSTEM

SUMMARY

Federal agencies and departments often need short term assistance for studies and expert advice which is not available within the system. They turn to consultants to provide this assistance. In some instances the consultants are hired directly and in others contractual arrangements are made with individuals or organizations.

The Office of Personnel Management sets the policies and procedures for the appointment of individual consultants, and the Office of Management and Budget is responsible for the policies and procedures governing the management of the contractual arrangements.

Problems have plagued the management of these systems for many years. It has proven impossible to define the consultant service function in such a way that the definition can be consistently applied. The Office of Management and Budget recently issued a revision of Circular A-120 which expands the definition and changes the nomenclature from "consulting services" to "Assistance and Advisory Services."

Except with regard to the appointments, statistics on consulting services have been uneven at best and are not comprehensive. The real costs of consulting services are unknown. The reports generated by consultants for the agencies are not centrally collected for the use of other agency personnel.

These and other issues are addressed in the report and a short historical background of congressional and executive actions is presented.

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Consultants in the Federal System

INTRODUCTION

Consultant services are obtained by Federal agencies either through the direct appointment of individuals or through contractual arrangements with individuals or organizations. The Office of Management and Budget sets out the guidelines for the use of consultant services through OMB Circular A-120. This document provides general guidance to the agencies as to the scope of function and management control over consultants whether under appointment or contract.

The Office of Personnel Management regulates the policies and procedures involved in the appointment of consultants. These personnel are employed, usually for a short term, to perform specific functions.

The Office of Federal Procurement Policy, within the Office of Management and Budget is responsible for setting out the policies and procedures governing the contracting arrangements with individuals or organizations providing specific consulting services.

The issues addressed below include the current policy with regard to the procurement and employment of consultants, the adequacy of reporting mechanisms in tracking the number and costs of consultants, and the policy with regard to the central collection of reports produced by consultants. This is followed by a summary of the development of the history of Federal consultant management and tracking. An effort has also been made to identify the most frequently raised concerns about the use of consultants.

CURRENT POLICY

Appointment of Consultants: Office of Personnel Management

Federal departments and agencies may employ consultants and experts on a temporary or intermittent basis under the authority of 5 U.S.C. 3109:

> When authorized by an appropriation or other statute, the head of an agency may procure by contract the temporary (not in excess of 1 year) or intermittent services of experts or consultants or an organization thereof, including stenographic reporting services.[1]

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[1] P.L. 89-554, Sept. 6, 1966, 80 Stat. 416; P.L. 95-454, title IV, sec. 402(b), Oct. 13, 1978, 92 Stat. 1160; P.L. 97-258, sec. 3(a)(4), Sept. 13, 1982, 96 Stat. 1063.

OPM's *Federal Personnel Manual* provides the following definition for consultants and consultant positions:

> (1) CONSULTANT means a person who serves primarily as an adviser to an officer or instrumentality of the Government, as distinguished from an officer or employee who carries out the agency's duties and responsibilities. A consultant provides views or opinions on problems or questions presented by the agency, but neither performs nor supervises performance of operating functions (23 Comp. Gen. 497). Generally, a consultant has a high degree of broad administrative, professional or technical knowledge or experience which should make the advice distinctively valuable to the agency.
>
> (2) A CONSULTANT POSITION is one which primarily requires performance of advisory or consultant services, rather than performance of operating functions.[2]

Section 3109 of Title 5 (P.L. 79-600, August 2, 1946)[3] refers to the procurement by contract of consultant services, but all of the *Federal Personnel Manual* language refers to employment and appointment. Is there a dichotomy there or can the language serve both purposes? According to staff at the OPM Office of General Counsel, they consider Section 3109 primarily an appointment authority. It is in Title 5 rather than the procurement codification (Title 41), and it provides for exemptions from certain of the classification requirements. At one point the staff did a legislative history of Section 3109 and determined that it originally represented a codification of several agency authorities for the hiring of consultants and experts under one section. Why the reference to procurement by contract was included has never been clear and OPM, as

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[2] U.S. Office of Personnel Management. Federal Personnel Manual. Chapter 304. Employment of Individual Experts and Consultants; Subchapter 1. Administration and General Provisions; 1-2. Definitions. January 22, 1982.

[3] Original language enacted under P.L. 79-600, Section 15, Aug. 2, 1946, 60 Stat. 806, 810, An act to authorize certain administrative expenses in the Government service, and for other purposes. A study of the history of the 1946 legislation shows that the purpose of the Act was to consolidate and make permanent language which was being included in the appropriations act on an ongoing basis. See: U.S. Congress. House. Committee on Expenditures in the Executive Departments. Administrative Expenses in Government Departments. H. Rept. No. 2186, 79th Cong., 2d Sess. May 29, 1946. Washington, U.S. Govt. Print. Off., 1949. 24 p.; U.S. Congress. Senate. Committee on Expenditures in the Executive Departments. Administrative Expenses in Government Departments. S. Rept. No. 1636, 79th Cong., 2d Sess. July 2, 1946. Washington, U.S. Govt. Print. Off., 1949. 11 p.; and Congressional Record, v. 92, 79th Cong., 2d Sess. p. 6164-6166 (House consideration and passage), 9189-9190 (Senate consideration and passage, with amendments), and 10185-10186 (House concurred in Senate amendments; bill cleared for the President). [At no point in the debate on H.R. 6533, is there discussion of section 15.]

well as Members of Congress, have made several efforts to have the language clarified, with no success.[4]

Compensation to individuals appointed under this authority is limited to the highest rate payable to a General Schedule employee, unless a higher rate is "specifically authorized by the appropriation or other statute authorizing the procurement of the services."[5] The Comptroller General has held that the highest payable rate under section 3109 (unless a higher rate is authorized) is the top step of a GS-15. The "GS-18 rate may be paid to persons appointed to professional engineering positions primarily concerned with research and development, and professional positions in medicine, and the physical and natural sciences."[6]

OPM Statistics

OPM is able to identify the number of consultants working for the Federal Government through data in its Central Personnel File. It is also possible for OPM to discern which appointments are for experts, consultants, and advisory committee members; and therefore develop statistics on those bases. OPM submits a quarterly report on consultants, experts, and advisory committee members to the Federal Procurement Data System under the auspices of the Office of Federal Procurement Policy. According to staff at the Office of Workforce Statistics in OPM, the quarterly reports were first sent to the Office of Federal Procurement Policy covering the first quarter of FY79. Their purpose, then as now, was to serve as background for the data system being developed as the Federal Procurement Data System. As far as the OPM staff are aware, the data are for informational purposes only and not included in the Data System.[7] According to the Office of Personnel Management, as of June 1987, there were 2,743 consultants in the Executive Branch serving under appointments made through the authority of 5 U.S.C. 3109 or authorities similar to 5 U.S.C. 3109.[8] This figure, however, only includes those departments and agencies with 50 or more experts,

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[4] Telephone conversation June 2, 1988 with Tom O'Connor, Office of the General Counsel, OPM. He stated also that the only instances of which he is aware that organizations' services have been procured under Section 3109 are agreements with stenographic services.

[5] Ibid.

[6] U.S. Office of Personnel Management. Federal Personnel Manual. Chapter 304. Employment of Individual Experts and Consultants; Subchapter 1. Administration and General Provisions; 1-6. Pay. January 22, 1982; and 43 Comp. Gen. 509(1964).

[7] Telephone conversations with John Curnow and Jim Hall, Office of Workforce Information, OPM. June 1 and 2, 1988.

[8] U.S. Office of Personnel Management. Quarterly Status Report on Experts, Consultants and Advisory Committee Members, June 1987. Data drawn from the Central Personnel Data File and submitted to the Office of Federal Procurement Policy. (unpublished)

consultants, and advisory committee members. Data on all appointed consultants are available but are not included in the OPM quarterly report.

Consultant Contracts:
Office of Management and Budget

The practice of procuring services of consultants under contract is governed by the *Federal Acquisition Regulations*[9] and the OMB Circular A-120[10] Guidelines for the Use of Advisory and Assistance Services.[11]

The Summary statement for the January 1988 revision of A-120 explains that the revision--

> (1) Expands the coverage of the circular; (2) requires the designation of a single official by each agency to be responsible and accountable for assuring that the provisions of the circular are met; (3) mandates minimum controls for the management and reporting of advisory and assistance services; and (4) exempts from the provisions of the circular all activities carried out in accordance with Circular A-76 (Revised) "Performance of Commercial Activities."[12]

The provisions of the circular apply to advisory and assistance services obtained by: personnel appointment, procurement contract, and advisory committee membership.[13]

The development of a workable and universal definition of "consultant services" has been one of the key stumbling blocks in the management and tracking of this particular activity. The 1988 revision of A-120 seeks to address the problem by setting forth the following definition:

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[9] U.S. National Archives and Records Administration. Office of the Federal Register. Code of Federal Regulations. Title 48. Federal Acquisition Regulations. Subchapter F - Special Categories of Contracting. Part 37 - Service Contracting. (Hereafter referred to as 48 CFR 37)

[10] The most recent revision of A-120 can be found: U.S. National Archives and Records Administration. Office of the Federal Register. The Federal Register. Office of Management and Budget, Guidelines for the Use of Consulting Service. v. 53, Jan. 12, 1988, p. 768-771. (53 FR 768-771) (Hereafter referred to as A-120, 1988.)

[11] The reader should note that the subject of A-120 was formerly cited as "Guidelines for the Use of Consulting Services." The new subject designation reflects the expanded definition in the 1988 revision.

[12] A-120, 1988, p. 768.

[13] Ibid., p. 769. (A-120, 1988, 4. Coverage.)

> Advisory and Assistance Services are those services acquired from non-governmental sources by contract or by personnel appointment to support or improve agency policy development, decision-making, management, and administration, or to support or improve the operation of management systems. Such services may take the form of information, advice, opinions, alternatives, conclusions, recommendations, training, and direct assistance. Advisory and assistance services include consultant services provided by individuals as defined in the Federal Personnel Manual, Chapter 304.[14]

The 1988 revision goes on to state that advisory and assistance services include activities which involve: 1) individual experts and consultants; 2) studies, analyses, and evaluations; 3) management and professional support services; and 4) engineering and technical services.[15]

Although it is probably too early to assess the overall effect of the changes mandated by the 1988 revision, it may already be possible for Federal agencies to provide some information on those contractual arrangements which have fallen within the expanded definitions. Agencies should also be able to tell the number of consultants currently appointed or functioning under contract, as well as approximate financial outlays. One question that may be raised is whether it is possible to determine if contractual arrangements are primarily for "assistance and advisory services" or if those services are secondary to the primary purpose of the contract. Currently most agencies probably only report, in the FPDS system, those contracts which are primarily of a consulting service nature. At some point in the future, it may be possible to devise a system for breaking that information down.

The 1988 revision may have enhanced management controls.[16] It remains to be seen whether the changes will increase the cost in terms of time and dollar outlay. Will contractual arrangements be delayed to any great degree?

Federal Procurement Data System

When the agencies report their contract actions to the Federal Procurement Data System (FPDS), which is maintained for OMB by the General Services Administration, they are required to check "yes" or "no" as to whether it is a consulting agreement. It is unclear at this time how the FPDS will adjust the information requirements it places on agencies to reflect the new definition of "assistance and advisory services."

Agencies are only required to report on those actions which are set at $25,000 or above. The $25,000 threshold probably eliminates a substantial number of consultant

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[14] Ibid, p. 768; A-120, 1988, 5. Definition.

[15] Ibid. Note: There is specific descriptive information relating to each of these characteristics which should be read for a full understanding of the scope of the definition.

[16] Ibid. p. 770, A-120-1988, 8. Management Controls.

contracts from the reporting requirement. Because the agencies are not required to submit detailed data, including consultant activities, on agreements under $25,000 there is no way to judge to what extent there is a universe of consultant contractual agreements being missed.

The standard quarterly report produced by the Federal Procurement Data System does not contain data on consultant agreements.[17] The FPDS is able, however, through the agency reports, to develop Special Studies which break down information about consultant agreements for $25,000 or more. The Special Studies are produced on a fee basis by request.

Apparently, the FPDS is on the brink of a major system overhaul and that will also affect the reports. Possibly, under the new system, the consultant--or assistance and advisory services--data could be summarized and published as part of the Federal and agency snapshots included in the standard quarterly reports.

Repository for Consultant Reports

The 1976 interrogatory to the agencies by the Senate Governmental Affairs Committee, discussed below in the "Historical Background" section, asked the following question:

> III. Are all reports and publications which are produced pursuant to contracting and consulting arrangements (a) available and (b) indexed in the agency reading room, library or elsewhere within the agency?[18]

Most of the larger agencies and departments responded that they did not have a central collection point for non-classified reports that were products of procurement agreements.[19]

As part of the current review of policy, CRS conducted an informal telephone survey of library or procurement staff in the Departments to ask if there existed a systematic collection of non-classified reports produced by contractors. The underlying question was how a person in the Department, seeking to have a study conducted, could check to see if there had been a similar study recently concluded. Respondents in most departments said that there is no central collection point and that reports are held by the contracting or program office. There are exceptions to that situation, however.

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[17] See: U.S. General Services Administration. Federal Procurement Data Center. Federal Procurement Data System, Standard Report Fiscal Year 1988 through First Quarter. Washington, General Services Administration, undated. 135 p.

[18] U.S. Congress. Senate. Committee on Governmental Affairs. Subcommittee on Reports, Accounting and Management. Consultants and Contractors: A Survey of the Government's Purchase of Outside Services. Committee Print, 95th Cong., 1st Sess. August 1977. Washington, U.S. Govt. Print. Off., 1977. p. 13.

[19] Ibid., p. 50-87: For the full discussion of the responses to this question.

Energy. According to Department of Energy staff, for example, a copy of the reports are sent to the DOE Office of Scientific and Technical Information. The pertinent information on the report is entered in various data bases and usually the National Technical Information System data base.[20]

Defense. Within the Department of Defense, the Defense Logistics Agency maintains the Defense Technical Information Center. Under the instructions provided in DOD Directive 4205.2 (1/27/86) the program office must provide the Center with, at minimum, a reference to the report and often a copy is provided. The information system maintains references to all studies and analyses done by contractors.[21]

Education. Within the Department of Education, any reports which related to education program subject matter would be entered in the Education Research data base. Automated data processing (ADP) or management-related reports, however, would not systematically be captured and collected.[22]

Agriculture. The National Agricultural Library makes an effort to maintain a collection of reports. Under a USDA regulation (USDA Departmental Regulation 1021-1, 10/27/81) "Two copies of all substantive publications prepared by or issued under the sponsorship of the Department but printed outside the central USDA and GPO channels will be forwarded to the NALB." The reports are cataloged and included in the collection.[23] The staff of the repositories of these collections are not in a position to monitor the system and to determine if they are in fact receiving copies of the reports.

Treasury. Staff at Treasury state that there is no written policy but that the Library is to be the repository of reports done by Treasury personnel and consultants.[24]

Transportation. According to staff at the Department of Transportation the Library is, in theory, to receive all DOT reports -- anything that is printed internally.[25]

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[20] Telephone conversation with Mr. Ronald R. Turner of the Reference and Information Management Division (586-5955). May 1988.

[21] Telephone conversation with Col. Carl Wilhelm, Office of the Secretary of Defense (845-2190). May 1988.

[22] Telephone conversation with Mr. William Sullivan, Contracts Operations Division, Department of Education (732-2524). May 1988.

[23] Telephone conversation with Mr. Butler, National Agricultural Library (301; 344-1562). May 1988.

[24] Telephone conversation with Mr. Larry Hicks, Procurement Services Director, Department of the Treasury (566-5468). May 1988.

[25] Telephone conversation with Dr. Lawrence E. Leonard, Library and Distribution Services Division, Department of Transportation (366-2565). May 1988.

State. Under an agreement with program offices, copies of non-classified reports are to be submitted to the State Department Library.[26] Here again, however, the staff in the repositories have no way of determining the extent to which they are receiving the reports being produced.

Reports to Congress

Since 1980, the Offices of Inspectors General in the departments and agencies have been required by statute[27] to submit to Congress "an evaluation of the progress of the agency in establishing effective management controls and improving the accuracy and completeness of the information provided to the Federal Procurement Data System on contracts for consulting services."[28] At the request of the Senate Subcommittee on Federal Services, Post Office and Civil Service the General Accounting Office is currently conducting a study of this reporting requirement and agency compliance.

Because there has been some question as to whether the Congressional Reports Elimination Act of 1982[29] repealed the reporting requirement, the Subcommittee asked both the Congressional Research Service's American Law Division and the General Accounting Office to study the question. Both agencies determined that the section of the U.S. Code (31 U.S.C. 1114) governing the reporting requirement had not been repealed.[30]

The reports prepared by the Offices of Inspectors General are only sent to those House and Senate Committees responsible for the agency authorization and appropriations. Rarely is this information sent to such committees as Senate Governmental Affairs, who have general oversight responsibilities. The Subcommittee staff may wish to establish a protocol with the oversight committees for access to this information.

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[26] Telephone conversation with Mr. Conrad P. Eaton, Library, Department of State (647-1062). May 1988.

[27] The requirement was included as language in a series of Fiscal 1981 and Fiscal 1982 Appropriations Acts: P.L. 96-304 section 307, July 8, 1980, 94 Stat. 928; P.L. 96-400 section 323(b),(c), Oct. 9, 1980, 94 Stat 1699; P.L. 96-436 section 126, Oct. 13, 1980, 94 Stat. 1869; P.L. 96-514 section 309(b),(c), Dec. 12, 1980, 94 Stat 2984; P.L. 96-528 section 616, Dec. 15, 1980, 94 Stat. 3117; and P.L. 97-102 section 318, Dec. 23, 1981, 95 Stat. 1461.

[28] 31 U.S.C. 1114; P.L.97-258, Sept. 13, 1982, 96 Stat. 916.

[29] Congressional Reports Elimination Act of 1982, P.L. 97-375, sec. 101; Dec. 21, 1982; 96 Stat. 1819.

[30] General Accounting Office testimony June 13, 1988 before the Subcommittee on Federal Services, Post Office and Civil Services; and U.S. Library of Congress. Congressional Research Service. Has 31 U.S.C. section 1114(b) Been Repealed? Memorandum by Thomas B. Ripy for Senate Committee on Governmental Affairs. May 11, 1988. 3 p.

Quality Control

The extent to which the agencies practice strict quality control over the activities of consultants is difficult to ascertain. The regulatory tools seem to be adequate, but without audits such activities are almost impossible to track.

Under the Federal Acquisitions Regulations, contracting officers are instructed as to the types of quality assurance to require under the various types of contracts.[31] The regulations specify the language to be included in the contract for a fixed price service contract[32] and the cost-reimbursement service contracts.[33] Establishing that the contracts should contain quality assurance clauses is only the first step in determining compliance on the part of the agencies. An audit of the contracts would be necessary to determine if the clauses are actually included in the contract. It would be difficult, even then, to determine to what extent the contracting officers had followed through with the inspections. Because a good many contract agreements are concluded in the field by program officers, quality assurance is dependent on a hierarchy of contract officers between the program managers and headquarters.

The Office of Personnel Management's instructions to agencies managing consultant appointments include requirements for internal review. The agencies are required to assure in each case that--

1) Duties performed are still those of an expert or consultant;
2) Time limits are being observed;
3) Documentation is kept current; and
4) Duties of record are actually being performed.[34]

The records of the internal review are to be retained until examined by OPM.[35] If a consultant does not perform as expected, an agency could determine not to use the services of that person again. Each agency is required, prior to appointment or extension of appointment, to have a high level management official certify, among other things, as to the qualifications of the proposed appointee.[36] It could be assumed that failure to perform under a prior agreement would appear in the appointees Official Personnel Folder. The Subcommittee may wish to explore with the agencies their policy

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[31] 48 CFR 46.2: Contractor inspection, standard inspection, or higher level contract quality requirements.

[32] 48 CFR 46.304 and 52.246-4.

[33] 48 CFR 46.305 and 52.246-5.

[34] U.S. Office of Personnel Management. Federal Personnel Manual. Chapter 304. Employment of Individual Experts and Consultants; Appendix A. Internal Agency Controls on Employment of Individual Experts and Consultants; A-2. Internal review during employment. January 22, 1982.

[35] Ibid., Documentation of review.

[36] Ibid, A-1. Establishment of positions and selection of appointees.

on checking Official Personnel Folders before appointing consultants. Also, there is the issue of quality assurance between and among agencies. The Official Personnel Folders are not centrally held and more than one agency may have used the services of any given consultant. Do the agencies check references before appointing a consultant and would one agency have access to that person's personnel records if held by another agency?

HISTORICAL BACKGROUND

Policies and procedures which are currently operable have been described above. The following sections describe the historical development of the policy. Both the legislative and executive branch efforts are discussed.

Congress and the Consultant Issue

In 1976, the Senate Governmental Affairs Subcommittee on Reports, Accounting and Management launched one of the most comprehensive studies of the use of consultants within the Federal service.

The Subcommittee found that there were few reporting mechanisms within the Federal Government for compiling comprehensive data on the use of consultants.[37] Neither the Office of Management and Budget (parent agency to the then new Office of Federal Procurement Policy), the Office of Personnel Management, nor the individual departments or agencies, for the most part, could provide such data. The Subcommittee survey found that the data from the agencies and departments provided serious problems to anyone attempting to draw any type of overall conclusions regarding government-wide use of consultants.

Despite problems with the data, the Subcommittee published the survey results in order to "convey a unique collection of information on the policies and procedures of the Executive Branch agencies in their use of contractors and consultants for professional services;" and to "demonstrate the variety of methods utilized by the agencies in tracking the line implementation of those policies and of the methodological problems involved in calculating the depth of involvement of contractor/consultant activity in the Federal sector."[38]

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[37] See: U.S. Congress. Senate. Committee on Governmental Affairs. Subcommittee on Reports, Accounting and Management. Consultants and Contractors: A Survey of the Government's Purchase of Outside Services. Committee Print, 95th Cong., 1st Sess. August 1977. Washington, U.S. Govt. Print. Off., 1977. 610 p. (Hereafter referred to as Consultants and Contractors.) and U.S. Congress. Senate. Committee on Governmental Affairs. Subcommittee on Reports. Accounting and Management. Development of a Uniform Reporting System for Federal Consultants and Contractors. Hearings, 95th Cong., 1st. Sess. September 13 and 15, 1977. Washington, U.S. Govt. Print. Off., 1977. 648 p. (Hereafter referred to as Development of Uniform Reporting.)

[38] Consultants and Contractors, p. 24

The current study by the Subcommittee on Federal Services, Post Office, and Civil Service does not attempt to duplicate the information gathering process of the earlier examination of the issue. The Subcommittee staff determined that the time, expense, and energy required for a government-wide survey would not be justified, since probably equally useful information will be obtained through having agency representatives appear before the Subcommittee.

Aside from being able to determine, at least to a certain degree, the extent and cost of consultant agreements, anyone looking at the issue in 1988 faces essentially the same information-gathering problems which existed a decade ago.

Congress, during the past decade has examined the question of consultants in a variety of different ways. Appendix A provides an extensive listing of congressional documents in which the issue of consultants in the Federal System has been addressed.

The section "Reports to the Congress," above, provides a discussion of the statutory requirement for Inspectors General to report to the Congress on the level of consultant activity.

One of the key legislative efforts to correct perceived problems in the system took place during the 96th Congress when Senator David Pryor and Representative Herbert E. Harris III introduced the Consultant Reform Act of 1980.[39] Under the provisions of their proposal, Federal agencies would have been "required to disclose the role played by consultants in preparing government reports" and "to specify in their annual budget how much of the funds they request are for contracts that involve the preparation of reports." Private contractors would have been "required to submit statements certifying that they were involved in no conflicts of interest."[40]

In addition, the proposal stipulated that agencies advertise most contracts in advance. Once a contract was awarded, agencies had to prepare public reports including the name of the contractor, the amount paid and a description of the work to be performed.[41] Since the problem of defining what actually constituted consultant service has been one of the constant uncertainties surrounding the issue, the authors of the bill sought to avoid interpretation by agency personnel by making its provisions applicable to all procurement actions.

In 1982, 5 U.S.C. 3109 was amended to provide that positions in the Senior Executive Service may not be filled under the authority of 3109.[42]

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[39] 96th Congress: H.R. 7674 and S. 2880. See Appendix A for citations to hearings record. Neither bill was reported out of committee.

[40] Consultant Reform Act: Subcommittees seek curbs on outside contract abuse, by Alan Murray. Congressional Quarterly Weekly Report, v. 38, Sept. 6, 1980. p. 2646-2647.

[41] Ibid., p. 2647.

[42] P.L. 97-258, sec. 3(a)(4), Sept. 13, 1982, 96 Stat. 1063.

Congress, in reauthorizing the Office of Procurement Policy in 1983, amended the Federal Property and Administrative Services Act to provide that the threshold for small purchases would be raised to $25,000 from $10,000.[43] As noted earlier, the higher threshold probably has affected the scope of reporting of consulting services contracts.

Among other provisions of the Competition in Contracting Act of 1984[44] was a requirement that appropriate officials in the Executive Branch conduct a study of alternatives and submit to Congress "a plan to increase the opportunities to achieve full and open competition on the basis of technical qualifications, quality, and other factors in the procurement of professional, technical, and managerial services."[45]

A search of the statutes during the 97th through the 100th[46] Congresses showed that, most of the 79 statutes which contained the word "consultant(s)" either authorized agencies to procure the services of consultants under the provisions of 5 U.S.C. 3109, appropriated specific dollar amounts to be used for consultant services,[47] or set the maximum rate to be paid a consultant.[48]

The 1985 Supplemental Appropriations Act[49] provides an example of legislative branch use of consultants. The Majority and Minority Conference Committees of the Senate received authorization to procure the services of individual consultants "to make studies or advise the committee with respect to any matter within its jurisdiction." The daily rates of compensation for individuals were not to be "in excess of the per diem

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[43] Office of Federal Procurement Policy Act Amendments of 1983, P.L. 98-191, section 9(a)(1), Dec. 1, 1983, 97 Stat. 1331.

[44] Deficit Reduction Act of 1984, Title VII Competition in Contracting, P.L. 98-369; July 18, 1984; 98 Stat. 494, at 1175.

[45] Ibid., section 2753(a).

[46] On-line search was conducted as of the end of February 1988. The key term was "consultant(s)". There may have been statutes which contained the term "consulting service," however, we determined that our term of choice would provide an adequate coverage of the statutes.

[47] For example: P.L. 97-114, Dec. 29, 1981, 95 Stat. 1565,at 1574. Department of Defense Appropriation Act , 1982; Title IV, Procurement: "...$13,700,000 for consultant, studies and analyses..."

[48] For example: P.L. 97-272, Sept. 30, 1982, 96 Stat. 1160, at 1179, Department of Housing and Urban Development Independent Agencies Appropriation Act, 1983. "Sec. 408. None of the funds provided in this Act may be used, directly or through grants, to pay or to provide reimbursement for payment of the salary of a consultant (whether retained by the Federal Government or a grantee) at more than the daily equivalent of the maximum rate paid for GS-18, unless specifically authorized by law."

[49] P.L. 99-88, 99 Stat. 293, Aug. 15, 1985.

equivalent of the highest gross rate of compensation which may be paid to a regular employee of such committee."[50]

Other than the legislative initiatives discussed so far, there do not appear to be other bills which address the issue of consultant service management on a government-wide scale. A perusal of Appendix A will demonstrate, however, that the Congress, in its oversight activities, does keep the consultant issue at a fairly visible level.

General Accounting Office: Audits and Evaluations

The General Accounting Office has long been involved in studying and evaluating the policy and practices of the departments and agencies in the management of the consulting services system. GAO has also been a consistent source of advice for Members and Committees interested in developing workable policy. Because the GAO is active in the Subcommittee's current study of consultants, a listing of their studies and discussion of the major suggestions for change will not appear as part of this presentation. It should be noted, however, that two major themes which have recurred over time in the GAO recommendations have been the need for a workable definition of "consultant" and for accurate accountability.

Executive Branch Initiatives

As a direct result of the 1977 study by the Senate Subcommittee on Reports, Accounting, and Management, President Jimmy Carter sent a memorandum to the departments and agencies establishing a requirement for reporting on the use of consulting services. He opened the memorandum with the following statement:

> In a continuing search for ways to improve the efficiency and effectiveness of the executive branch, I have become aware of a need for improved management of the excessively large volume of consulting and expert services used by the Federal Government. A recent survey by a Senate subcommittee of the use of personal and non-personal consultant and expert services identified more than 30,000 contract arrangements and 10,777 individual appointments. Additionally, there are such services provided by grant arrangements and through advisory committee memberships.
>
> There has been, and continues to be, evidence that some consulting services, including experts and advisors, are being used excessively, unnecessarily, and improperly.[51]

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[50] Ibid., sec. 195(a) and (b).

[51] U.S. General Services Administration. Office of the Federal Register. Memorandum for the Heads of Executive Departments and Agencies, May 12, 1977. Federal Register, v. 42, Dec. 16, 1977. p. 63493. Note: The memorandum was not published in either the *Federal Register* or the *Weekly Compilation of Presidential Documents* at the time it was issued. The text can be found in Consultants and Contractors, p. 17.

President Carter continued by citing several of the policy areas in which problems had been identified and called for immediate correction. In order to achieve a better system, he required that the agencies:

1. Review all data that is available or can be readily assembled to describe [principal purpose, types, numbers and dollars spent on consultant arrangements].

2. Review and revise the management controls and decision criteria used for consultants which will effectively prevent abuses.

3. Eliminate those consultant arrangements found to be neither appropriate nor necessary.

4. Report the results . . . to [OMB] by June 30, 1977.[52]

Several months later, on December 15, 1977, the recently established Office of Federal Procurement Policy within the Office of Management and Budget published a notice of a proposed bulletin providing "Guidelines for the Use of Consulting Services." The introductory summary to the bulletin notification states:

> This proposed policy is based largely upon the responses received to the President's memorandum of May 12, 1977, regarding the use of consultants. The review of these data showed widely varying criteria for the use of consultants among agencies, the need for a standard definition of "consultant services," and the need for uniform management controls to assure that abuses in the use of consultants do not occur. The draft bulletin has been developed to correct these inconsistencies.[53]

On May 5, 1978, the Office of Management and Budget issued OMB Bulletin No. 78-11, "Guidelines for the Use of Consulting Services."[54] The Carter Administration had decided on the following definition:

> As used for administrative direction in this Bulletin, *Consulting Services* means those services of a purely advisory nature relating to the governmental functions of agency administration and management and agency program management. . . . These services are normally provided by persons and/or organizations who are generally considered to have knowledge and special

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[52] Ibid.

[53] U.S. General Services Administration. Office of the Federal Register. Office of Management and Budget; Guidelines for the Use of Consultant Services. Federal Register, v. 42, Dec. 16, 1977. p. 63492-63493.

[54] U.S. General Services Administration. Office of the Federal Register. Office of Federal Procurement Policy; Issuance of OMB Bulletin No. 78-11. Federal Register, v. 43, May 10, 1978. p. 20065-20067.

> abilities that are not generally available within the agency. The form of compensation is irrelevant to the definition.[55]

The Bulletin established some management controls and required that, by October 1, 1978, the Civil Service Commission's Central Personnel Data File (CDPF), the Federal Procurement Data System (FPDS), and the documentation system for advisory committees under OMB Circular A-63 all be capable of providing information on consulting service arrangements within the executive branch. In addition, agencies were required to submit to the Office of Federal Procurement Policy (on June 30, 1978) a one-time report on the categories of consultant agreements consisting of the identification of consultant arrangement category, the number of each type and the total dollar outlay for each group.[56]

OMB Circular A-120, "Guidelines for the Use of Consulting Services" was issued on April 14, 1980.[57] The introduction to the Circular states

> The Circular provides permanent guidance on Federal agencies' use of consulting services replacing OMB Bulletin No.78-11. The Circular contains the same definition used in Bulletin 78-11, with an expanded list of examples; the same policies, with an additional policy designating to the contracting officer final responsibility for determining whether a proposed procurement action is for consulting services; a requirement to raise the level of agency approval during the fourth fiscal quarter; and, the same guidelines, management controls, and data requirements. The relationship of the Circular to OMB Circular A-76 is also clarified.[58]

The Circular also required the contracting officer to provide the Federal Procurement Data System information on all contracts which were consulting service agreements of more than $10,000.

A July 2, 1980 memorandum from the Director of OMB to the heads of selected departments and agencies further addressed the issue of procurement control.[59] The memorandum directed those agencies to develop two distinct management control

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[55] Ibid., p. 20066.

[56] Ibid.

[57] U.S. General Services Administration. Office of the Federal Register. Office of Management and Budget, Office of Federal Procurement Policy, OMB Circular A-120: Guidelines for the use of consulting services. Federal Register, v. 45, May 7, 1980. p. 30197-30199.

[58] Ibid., p. 30198.

[59] A copy of the memorandum was not available but reference to it is found in: U.S. General Services Administration. Office of the Federal Register. Office of Federal Procurement Policy, Invitation for Public Comment; Proposed Bulletin and Invitation for Public Comment; Proposed Revision to Circular. Federal Register, v. 47, Jan. 11, 1982. p. 1196- 1199.

systems: one for procurement in general and the other for consulting services in particular.

In 1982, following reviews of the implementation of A-120, of the management control plans developed pursuant to that memorandum, as well as data from the Federal Procurement Data System, the determination was made that the use of consultants should be more closely monitored. OMB proposed issuing a Bulletin establishing management controls to be followed when Federal agencies contracted for certain management, professional, and support services. The controls covered special studies and analyses, along with certain research and development activities. OMB would revise sections of A-120 in order to "ensure that only those consulting services that are necessary, appropriate and justified are acquired."[60]

The 1982 revision of A-120 primarily focused on the definition of what constitutes a "Government function," functions which were not appropriate to be carried out by a consultant. It also authorized checks on the practice of granting sole source agreements to consultants who submitted unsolicited proposals, as well as checks on subcontracting arrangements which would circumvent the controls of A-120.

Early in 1984 the Cabinet Council on Management and Administration received a report on consulting service controls:

> For over twenty years reports by the GAO and other agencies have identified problems in the way the government awards, manages and uses consulting service contracts. The press reports contracts awarded to "Beltway Bandits" on the basis of employees' contacts or past relationships with the contracting agency. Estimates of the cost of the services have ranged from $1.5 to $4 billion, but they cannot be relied upon due to vague definitions of the term. Every previous President has been unsuccessful in addressing the problems. The CCMA asked the Working Group to define "consulting services," estimate their cost, review existing controls on their use, and propose further reforms.[61]

Since the study by the Cabinet Council on Management and Administration is crucial to any study of the current OMB policy, the entire "Findings" and "Recommendations" sections are included at this point:

> *FINDINGS*
>
> (1) We agreed that consultants are really providing "advisory and assistance services" to program managers through studies and analyses. A review was then made of the Federal Procurement Data System (FPDS), which is used to collect data on all awarded contracts, for categories which might include "advisory and assistance service" contracts. Data on these contracts are supposed to be entered into a single category in the system,

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[60] Ibid.

[61] U.S. Dept. of Commerce. Consulting Services Controls. Unpublished memorandum for the Cabinet Council on Management and Administration; from Clarence J. Brown. Washington, Feb. 17, 1984. 20 pages with attachments.

but vague descriptions now lead to the contracts being entered into as many as eleven categories.

In five of the eleven categories, we believe all contracts are being awarded for "advisory and assistance services." In the category of R&D Management and Support Services, an undetermined portion of the contracts awarded are for such services, with the remaining portion awarded for administrative, maintenance, or custodial services. Spending for all contracts in these six categories totalled $15.5 billion in FY 1982.

"Advisory and assistance services" are present in five other categories totalling $14.5 billion in FY 1982, but current definitions make it impossible to determine the amount.

(2) All agencies have some control system in place, but only two have strictly applied the OMB Model Control System recommended last year. The systems generally track the eleven steps of the OMB Model, but there are weaknesses in most of them.

(3) In most of the categories, at least 40% of the contracts are awarded on a cost on non-competitive basis or are extensions of existing contracts (also without competitive bidding).

In the largest of the eleven categories above, R&D Engineering and Operational Systems Development, 72% of the contracts were awarded on a non-competitive basis, 68% were modifications, and 52% were cost-basis contracts.

RECOMMENDATIONS

- The GSA and the Office of Federal Procurement Policy should form a government-wide Task Team to improve the accuracy of the Federal Procurement Data System. We have made some specific recommendations on this issue.

- Agencies should strengthen their control systems to at least satisfy the steps of the OMB Model.

- "Consulting services" should be redefined as "advisory and assistance services." Contracts for them in six categories in the FPDS should be subject to further controls, including the following:

  - Review (over a threshold amount) by a Single Official who is not involved in procuring the contract.
  - Evaluation of the product's utility to the agency.
  - Cross-reference of proposed contracts, through a government-wide system, to prevent duplication.

- Other changes with respect to these contracts include:

- Certifying that the employee managing the contract is truly qualified.
- Preparing annual plans for these contracts.
- Rewarding good contract management.

- Five of the eleven categories as noted above should be sampled to determine what portion of the dollars spent were for "advisory and assistance services."

- We reiterate recommendations made in mid-December on this issue:

  - OMB should require Departments and agencies to report actual spending for FY 1983 and estimated spending for FY 1985 for these services in six categories of the FPDS.
  - Departments and agencies should continue to report contracts for $10,000 for "advisory and assistance services," notwithstanding the increase in the small purchase threshold last year.

- Existing regulations against excessive use of modifications, non-competitive and cost basis contracts must be enforced.

- Minor recommendations with respect to grants, intra- and interdepartmental contracts for "advisory and assistance services," and advisory committees have also been made.[62]

Later in 1984, in compliance with the requirements of the Competition in Contracting Act, the Office of Federal Procurement Policy initiated a study of alternatives for procurement of professional services.[63] OMB's "Study of Professional Services Contracting," was submitted to the Chairmen of the Senate Governmental Affairs Committee and the House Committee on Government Operations in January 1985.[64]

On June 24, 1987, the Office of Management and Budget published notice of proposed revisions to A-120, based largely on the study by the Cabinet Council on

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[62] Ibid., p. 1-2.

[63] U.S. General Services Administration. Office of the Federal Register. Office of Management and Budget, Office of Federal Procurement Policy, Study of alternatives in procurement of professional services. Federal Register, v. 49, Aug. 29, 1984. p. 34319-34320

[64] U.S. Office of Management and Budget. Office of Federal Procurement Policy. Study of Professional Services Contracting, Report to the Congress. Washington, January 1985. 74 p.

Management and Administration.[65] The summary section of the notice stated that these changes would:

> (1) Broaden the coverage of the Circular, principally by adding direct assistance services and defense-oriented engineering and technical services;
>
> (2) require the designation of a single official by each agency to be responsible and accountable for assuring that the provisions of the circular are met;
>
> (3) require each agency to maintain or establish -- if such a system does not already exist -- an accounting or information system to effectively monitor and report these activities; and
>
> (4) eliminate any confusion between Circulars A-120 and A-76 by exempting A-76 transactions from the control system.[66]

The final language of the revision was published in January 1988 and is discussed above (See pp. CRS-4,5)

CONCLUSION

As the Senate Subcommittee on Federal Services, Post Office, and Civil Service continues its examination of the policies and procedures for using consultant services in the Federal agencies, several key concerns discussed in this review appear to warrant attention:

- What are the management controls within the agencies and the effectiveness of these controls?
- Is there duplication of effort?
- Are consultants cost-effective?
- Do the current reporting mechanisms really control and track consultant use?

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[65] U.S. National Archives and Records Administration. Office of the Federal Register. Office of Management and Budget, Proposed revisions to Circular A-120 "Guidelines for the use of consulting services." Federal Register, v. 52, June 25, 1987. p. 23918-23920.

[66] Ibid.

The new definition of services governed by A-120 is not necessarily going to solve the perennial problem of interpretation. The agencies' interpretation and plans for applying the new definition may be of interest to Congress.

The disposition of reports produced under contract is another issue which might well benefit from further study. It can be argued that agencies should provide their staff with a central point at which they could see reports completed under contract or, at the very least, know where a copy might be obtained.

Reporting will remain a problem as long as there is uncertainty over what constitutes a consultant or assistance and advisory service. Regardless of the definition, there may still be many consulting contractual agreements which go unreported. These are the procurement actions which are less than $25,000. It is assumed that there are a good many short-term consulting agreements under this threshold. However, no one really knows. Perhaps there could be a one-time report on all "consulting/assistance and advisory services" agreements. If that study showed that there are relatively few such agreements that are not being captured, the perceived problem could be discounted. If, however, it showed that there were a considerable number which accounted, in the aggregate, for substantial outlay, some type of ongoing reporting mechanism could be put in place.

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APPENDIX A: CONGRESSIONAL DOCUMENTS

The documents listed below are the records of Congressional hearings, reports and committee prints that relate to consultants in the Federal system, as cited by the Congressional Information Service.[67] References specifically related to consultant use and references on comprehensive procurement issues which would affect procurement of consultants are included. The list is organized by year of publication and alphabetically within each year. The time period covered are the years 1978 through 1986.

1978

U.S. Congress. House. Committee on Appropriations. Subcommittee on Interior Appropriations. Department of the Interior and Related Agencies Appropriations for 1979, Part 7. Hearings, 95th Cong., 2d Sess. Apr. 4-7, 24, 27, Mar. 17, 1978. Washington, U.S. Govt. Print. Off., 1978. 945 p.

The volume represents the continuation of hearings to consider the FY79 budget requests of the Interior Department and related agencies. Interior's Deputy Assistant Secretary for Budget, Policy and Administration responded to questions about consultants (p. 815-891) and tables relating to Interior Department use of consultant services during FY77 were inserted (p. 853-870).

U.S. Congress. Senate. Committee on Appropriations. Subcommittee on Treasury, U.S. Postal Service, and General Government Appropriations. Treasury, Postal Service, and General Government Appropriations for FY79, Part 2. Hearings, 95th Cong., 2d Sess. Mar. 1, 2, 7, 9-17, 21-23, Apr. 4, 1978. Washington, U.S. Govt. Print. Off., 1978. 1090 p.

Included in the testimony by officials of the U.S. Postal Service is a copy of a memo: "Contracting with Individuals for Consultant/Study Services," (USPS, memo, Nov. 28, 1977). p. 521-523.

U.S. Congress. Senate. Committee on Governmental Affairs. Federal Acquisition Act of 1977. Rept. No. 95-715, 95th Cong., 2d Sess. Mar. 22, 1978. Washington, U.S. Govt. Print. Off., 1978. 153 p.

Recommends passage, with an amendment in the nature of a substitute, of S. 1264, the Federal Acquisition Act of 1977, to establish policies and criteria for Federal procurement of property and services by: competitive sealed bids; competitive negotiations; and simplified procedures for small purchases.

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[67] Congressional Information Service. CIS annual. 1978-1987, Washington, v. 9-18. (KF49.C62)

U.S. Congress. Senate. Committee on Governmental Affairs. Subcommittee on Federal Spending Practices and Open Government. Federal Acquisition Act of 1977. Hearings, 95th Cong., 2d Sess. July 18, 19, 22, 26, 28, 1977. Washington, U.S. Govt. Print. Off., 1978. 1065 p.

Hearings on a proposal (S.1264) to consolidate and simplify policies and criteria for Federal procurement of property and services, including provisions relating to OMB Office of Federal Procurement Policy (OFPP) implementation and regulatory responsibilities, equitable participation by small businesses, and GAO bid protest resolution authority.

U.S. Congress. Senate. Committee on Governmental Affairs. Subcommittee on Reports, accounting, and Management. Development of a Uniform Reporting System for Federal Consultants and Contractors. Hearings, 95th Cong., 2d Sess. Sept. 13, 15, 1977. Washington, U.S. Govt. Print. Off., 1978. 648 p.

Hearings to consider the feasibility of developing a uniform report system and a proposal (S. 619) to require Federal agencies to include names, contract terms, and other information regarding consultants or contractors participating in authorship of agency-issued documents, films, and recordings.

1979

U.S. Congress. House. Committee on Appropriations. Subcommittee on Agriculture and Related Agencies Appropriations. Agriculture, Rural Development and Related Agencies Appropriations for 1980, Part 5. Hearings, 96th Cong., 1st Sess. Mar. 6-9, 20-22, 1979. Washington, U.S. Govt. Print. Off., 1979. 1180 p.

Included with the testimony for the Commodity Futures Trading Commission (CFTC) is an insertion related to the CFTC's use of experts and consultants. The insertion consists of 1975-78 list, a Feb. 28, 1979 table, and a 1976-1979 graph. (p. 560-563)

U.S. Congress. House. Committee on Interstate and Foreign Commerce. Subcommittee on Energy and Power. Department of Energy Authorizations (FY79 and FY80) and Energy Emergency Preparedness. Hearings, 96th Cong., 1st Sess. Feb. 13-15, 22, 23, 26, 28, Mar. 2, 6, 1979. Washington, U.S. Govt. Print. Off., 1979. 1087 p.

Includes discussion of Department of Energy procurement practices, personnel management and use of advisory committees (p. 254-369). Reviews the Economic Recovery Administration's contracting procedures and regulations regarding use of contractors and their proper activities and responsibilities.

U.S. Congress. House. Committee on Post Office and Civil Service. Civil Service Authorization Act of 1979. H. Rept. No. 96-540, 96th Cong., 1st Sess. Oct. 22, 1979. Washington, U.S. Govt. Print. Off., 1979. 39 p.

Along with recommending passage of the authorization measure, the report requires OPM to report annually to Congress on executive agencies personnel management contracts with private firms.

U.S. Congress. Senate. Committee on Appropriations. Subcommittee on Labor and HEW Appropriations. Comprehensive Employment and Training Programs and HEW Consultants - Abuse and Mismanagement, FY80. Hearings, 96th Cong., 1st Sess. May 9, 17, 22, 1979. Washington, U.S. Govt. Print. Off., 1979. 325 p.

The HEW testimony presents a defense of HEW consultant contract use and costs, including specific education conference and study expenses; results of revised guidelines and procedures to award contracts; justification of HEW health program staffing levels; assessment of HEW consultant contract needs, controls, and problems (p. 165-211). Includes consulting Firms' correspondence regarding HEW regulation of consultant services (p. 220-236) and HEW responses to subcommittee questions (p. 237-324).

U.S. Congress. Senate. Committee on Armed Services. Federal Acquisition Act. Hearings, 95th Cong., 2d Sess. Sept. 22, Oct. 5, 1978. Washington, U.S. Govt. Print. Off., 1979. 67 p.

Hearings to consider S. 1264, the Federal Acquisition Act of 1977, to consolidate and simplify policies and criteria for Federal procurement of goods and service.

U.S. Congress. Senate. Committee on Governmental Affairs. Subcommittee on Federal Spending Practices and Open Government. Federal Acquisition Reform Act of 1979. Hearing, 96th Cong., 1st Sess. Mar. 26, 1979. Washington, U.S. Govt. Print. Off., 1979. 351 p.

Hearing to consider the Federal Acquisition Reform Act of 1979 (S. 5), to require the Office of Federal Procurement Policy to consolidate and simplify policies and criteria for Federal procurement of goods and services.

1980

U.S. Congress. House. Committee on Appropriations. Federal Budget for 1981. Hearings, 96th Cong., 2d Sess. Feb. 7, 8, 1980. Washington, U.S. Govt. Print. Off., 1980. 236 p.

Inserted in the testimony of Office of Management and Budget staff was information on the Federal agency use of consultants along with analysis with tables showing consulting service arrangements by agency (p. 142-156).

U.S. Congress. House. Committee on Appropriations. Subcommittee on Interior Appropriations. Department of the Interior and Related Agencies Appropriations for 1981, Part 6. Hearings, 96th Cong., 2d Sess. Mar. 10-12, 19 24, Apr. 1, 1980. Washington, U.S. Govt. Print. Off., 1980. 909 p.

Supplementary material (p. 61-62, 573-909) includes tables summarizing Interior Dept. FY79 and FY80 contracts for consulting services, data collection services, and research projects, with contract amount, award date, procurement method, contractor names, and service description.

-----. Department of the Interior and Related Agencies Appropriations for 1981, Part 9. Hearings, 96th Cong., 2d Sess. Apr. 15, 17, 22, 29, 30, May 12, 13, 1980. Washington, U.S. Govt. Print. Off., 1980. 913 p.

Included in the National Endowment for the Arts testimony is a list of NEA consultants' contracts and contract amendments, FY79-FY80 (p. 380-387).

U.S. Congress. House. Committee on the Judiciary. Use of Agents by the Department of Justice in the Enforcement of the Antitrust Laws. H. Rept. No. 96-872, 96th Cong., 2d Sess. Apr. 11, 1980. Washington, U.S. Govt. Print. Off., 1980. p. 12.

Recommends passage of H.R. 5949, to amend the Antitrust Civil Process Act to reduce antitrust litigation costs and complexity by authorizing Justice Department use of contract document analysis and consultant services during pretrial civil antitrust investigations.

U.S. Congress. Senate. Committee on Appropriations. Subcommittee on Legislative Branch Appropriations. Legislative Branch Appropriations, FY81, Part 2. Hearings, 96th Cong., 2d Sess. Feb. 19, 28, Mar. 4, 25, 1980. Washington, U.S. Govt. Print. Off., 1980. 880 p.

Includes the digest of the General Accounting Office report, "Controls Over Consulting Service Contracts at Federal Agencies Need Tightening" (p. 749-751).

U.S Congress. Senate. Committee on Appropriations. Subcommittee on HUD and Independent Agencies Appropriations. Aug. 1980. Staff Report. 96th Cong., 2d Sess. Aug. 1980. Washington, U.S. Govt. Print. Off., 1980. 13 p.

Investigations staff report asses U.S. Regulatory Council use of consultants and contract award procedures. Examines Council current funding by EPA, considers outside contracting and consulting arrangements, and suggests clarification of Council legal and administrative status.

U.S. Congress. Senate. Committee on Governmental Affairs. Subcommittee on Civil Service and General Services. Federal Government's Use of Consultant Services. Hearing, 96th Cong., 1st Sess. Oct. 12, 1979. Washington, U.S. Govt. Print. Off., 1980. 147 p.

Hearing to examine effects of the growth of contract bureaucracy on public policy and the cost of Government. Focuses on alleged wide-spread abuses including conflict of interest in Federal agency contracts with private consultants.

U.S. Congress. Senate. Committee on Governmental Affairs. Subcommittee on Energy, Nuclear Proliferation, and Federal Services. Oversight of the Structure and Management of the Department of Energy, Part 2. Hearings, 96th Cong., 1st Sess. Nov. 2, 14, 28, Dec. 13, 1979. Washington, U.S. Govt. Print. Off., 1980. 508 p.

Continued review of management of Department of Energy programs. Testimony of DOE witnesses include statement and discussion of problems and plans for improved management of DOE consulting services procure (policy memos, p. 31-40).

U.S. Congress. Senate. Committee on Governmental Affairs. Subcommittee on Oversight of Government Management. "Hurry-up" Spending. Committee Print, 96th Cong., 2d Sess. July 23, 1980. Washington, U.S. Govt. Print. Off., 1980. 45 p.

Report, based on subcommittee investigation and 1979-1980 hearings, examining the practice of some Federal departments and agencies of obligating unspent funds during the last quarter of a fiscal year to prevent the return of unobligated funds to Treasury Department. Examines causes, extent, and results of hurry-up spending. Includes recommendations and additional views with text of S. 2880, the Consultant Reform Act of 1980 (p. 43-45).

1981

U.S. Congress. House. Committee on Appropriations. Subcommittee on Defense Appropriations. Hearings, 97th Cong., 1st Sess. June 10, 23, July 13, 16, 31, 1981. Washington, U.S. Govt. Print. Off., 1981. 1042 p.

Hearings examine Department of Defense use of outside consultants and DOD contracting practices. Includes a submission from DOD, "FY82 Budget, Special Analysis, Consultants, Studies and Analyses, and Management Support Contracts with tables with amended FY782 budget analysis and narrative justifications by military branch, Mar., Apr. 1981 (p. 577-691). The GAO testimony includes a summary of GAO studies on DOD consulting services and management support contracts use, recommended modifications in DOD contracting and consulting practices; and support for legislation defining DOD contracting policy. Two GAO reports are inserted. (p. 692-845)

U.S. Congress. House. Budget Committee on. Consultant and Service Contracts. Hearing before the Task Force on Government Efficiency, 96th Cong., 2d Sess. Nov. 17, 1980. Washington, U.S. Govt. Print. Off., 1981. 140 p.

Hearing to examine Federal agency reliance on tractors for performance of consulting services. Focuses on efforts to improve management controls over contractors.

U.S. Congress. House. Committee on Interstate and Foreign Commerce. Subcommittee on Oversight and Investigations. Cost-Benefit Analysis: The Potential for Conflict of Interest. Hearings, 96th Cong., 2d Sess. Apr. 17, June 17, Aug 22, Sept. 24, Sept. 30, 1980. Washington, U.S. Govt. Print. Off., 1981. 824 p.

Hearings to examine conflict of interest and other issues regarding Federal regulatory agency contracts for cost-benefit analysis work with private consultants who are also employed by regulated industries. Focuses on potential conflict of interests situations identified during 1979 GAO investigation of 156 contracts between consultants and regulatory agencies, including EPA, DOE, and National Highway Traffic Safety Administration.

U.S. Congress. House. Committee on Post Office and Civil Service. Subcommittee on Human Resources. Consultant Reform Act of 1980. Hearings, 96th Cong. 2d Sess. Aug. 25, 28, 1980. Washington, U.S. Govt. Print. Off., 1981. 187 p.

Hearings to consider H.R. 7674, the Consultant Reform Act of 1980, to clarify Federal agency authority for appointment and compensation of private consultants and to provide guidelines governing Government contracts for procurement of goods and services, including guidelines regarding disclosure of budgetary information and potential conflict of interest.

U.S. Congress. Senate. Committee on Appropriations. Subcommittee on Interior Appropriations. Department of the Interior and Related Agencies Appropriations, FY81, Part 3. Apr. 24, 28, 29, 30, May 1, 13, 14, 15, 16, 1980. Hearings, 96th Cong., 2d Sess. Washington, U.S. Govt. Print. Off., 1981. 1110 p.

The testimony includes a budget explanation for the request from the Navajo and Hopi Indian Relocation Commission for a supplemental FY80 request for consultant contracts (p. 83-115, justification: p. 84-89).

U.S. Congress. Senate. Committee on Governmental Affairs. Consultant Reform Act of 1980. Hearings, 96th Cong., 2d Sess. Aug. 19, 20, 1980. Washington, U.S. Govt. Print. Off., 1981. 668 p.

Hearings to consider S. 2880, the Consultant Reform Act of 1980, to clarify Federal agency authority for appointment and compensation of private consultants, and to provide guidelines governing Government contracts for procurement of goods and services, including reporting requirements regarding disclosure of budgetary information and potential conflict of interests.

U.S. Congress. Senate. Committee on Governmental Affairs. Subcommittee on Civil Service and General Services. Federal Consulting Service Contracts, Part 1. Hearings, 96th Cong., 2d Sess. Mar. 27, Apr. 3, 1980. Washington, U.S. Govt. Print. Off., 1981. 302 p.

Joint hearings with the House Post Office and Civil Service Subcommittee on Human Resources to examine findings of a GAO report on Federal agency management controls and policies with regard to consultant contracts. Includes a discussion and review of OMB actions to improve Federal agency management controls on consultant contracts; of the difficulty of obtaining accurate statistics on consultant contracts from Federal agencies (p. 25-62). The general government discussion is followed by discussions of the policies and practices within the Department of Commerce, the Department of Labor, the Department of Energy, the Federal Aviation Administration and Department of Transportation, the Department of Housing and Urban Development and the HEW Office of Education.

-----. Federal Consulting Service Contracts, Part 2. Hearings, 96th Cong., 2d Sess. June 24, July 22, 1980. Washington, U.S. Govt. Print. Off., 1981. 397 p.

Continuation of joint hearings with House Post Office and Civil Service Subcommittee on Human Resources to examine Federal agency management controls and policies with regard to consultant contracts. This volume focuses on the practices of the Department of Energy.

1982

U.S. Congress. House. Committee on Appropriations. Subcommittee on Interior Appropriations. Department of the Interior and Related Agencies Appropriations for 1983, Part 8. Hearings, 97th Cong., 2d Sess. Mar. 4, 22, 23, 25, Apr. 22, 30, May 10, 19, 24, 25, 1982. Washington, U.S. Govt. Print. Off., 1982. 1475 p.

Continuation of hearings to consider FY83 budget requests for Interior Department and related agencies. Included in the testimony explaining the department's budget request are tables related to Interior Department consultants salaries and job tasks, FY81-FY82 (p. 829-843).

U.S. Congress. House. Committee on Post Office and Civil Service. Subcommittee on Human Resources. Consulting Reform and Disclosure Act. Hearings, 97th Cong., 2d Sess. May 6, 11, 1982. Washington, U.S. Govt. Print. Off., 1982. 120 p.

Hearings to consider H.R. 4089, the Consulting Reform and Disclosure Act, to clarify Federal agency authority for appointment and compensation of private consultants, and to provide guidelines governing Government contracts for procurement of goods and services, including reporting requirements regarding disclosure of budgetary information and potential conflicts of interest.

U.S. Congress. Senate. Committee on Appropriations. Waste, Fraud, and Abuse in Federal Spending, FY82. Hearings, 97th Cong., 1st Sess. June 24, July 9, 1981. Washington, U.S. Govt. Print. Off., 1982. 248 p.

Hearings to assess the extent of waste, fraud, and abuse in Federal spending programs, focusing on employee travel and training costs, agency use of private sector consultants, and DOD procurement.

-----. Department of the Interior and Related Agencies Appropriations, FY82. Hearings, 97th Cong., 1st Sess. Feb. 19, 25, 26, Mar. 3, 4, 25, 1981. Washington, U.S. Govt. Print. Off., 1982. 970 p.

Includes the budget explanation for the request by the Navajo and Hopi Indian Relocation Commission for FY82 for Commission programs and supplemental FY81 request for consultant contracts (p. 493-536).

U.S. Congress. Senate. Committee on Governmental Affairs. Subcommittee on Federal Expenditures , Research, and Rules. Hearings, 97th Cong., 1st Sess. Sept. 18, 1981. Washington, U.S. Govt. Print. Off., 1982. 208 p.

Hearing to consider S. 719, the Consultant Reform and Disclosure Act of 1981, to clarify Federal agency authority for appointment and compensation of private consultants, and to provide guidelines governing Government contracts for procurement of goods and service, including reporting requirements regarding disclosure of budgetary information and potential conflict of interests.

1983

U.S. Congress. House. Committee on Energy and Commerce. Subcommittee on Oversight and Investigations. PCB and Dioxin Cases. Hearing, 97th Cong., 2d Sess. Nov. 19, 1982. Washington, U.S. Govt. Print. Off., 1983. 370 p.

Hearing to examine environmental and public health problems associated with toxic chemical soil contamination. Included in the discussion with Environmental Protection Agency witnesses is an examination of EPA use of private consultants in support of environmental enforcement programs under CERCLA and the Resources Conservation and Recovery Act (p. 147-349, related correspondence p. 309-325).

U.S. Congress. Joint Economic Committee. 1983 Economic Report of the President. Part 1. Hearings, 98th Cong., 1st Sess. Jan. 26, 27, 31, Feb. 2, 1983. Washington, U.S. Govt. Print. Off., 1983. 325 p.

Hearings to review issues related to the President's Economic Report for 1983. Inserted into the testimony of the Director of the Office of Management and Budget is "Model Control System for Consulting and Related Services," the OMB procurement supervision guidelines, dated Jan. 15, 1982 (p. 297-317).

1984

U.S. Congress. House. Committee on Government Operations. Subcommittee on Commerce, Consumer, and Monetary Affairs. Hearing, 98th Cong., 1st Sess. Nov. 9, 1983. Washington, U.S. Govt. Print. Off., 1984. 1076 p.

Hearing to examine the effectiveness of FTC antitrust law and consumer protection enforcement activities in view of reduced agency resources and administrative policy changes under Chairman James C. Miller III. Insertions include lists, by consultant name, of FTC consultant tasks and fees at Bureaus of Economics, Competition, and Consumer Protection (p. 463-487).

U.S. Congress. House. Committee on Post Office and Civil Service. Subcommittee on Civil Service. Hearing, 98th Cong., 2d Sess. Apr. 26, 1984. Washington, U.S. Govt. Print. Off., 1984. 20 p.

Hearing to consider H.R. 5517, to permit GAO to increase the number of Senior Executive Service positions on its staff, and to hire additional experts and consultants.

U.S. Congress. House. Committee on Public Works and Transportation. Subcommittee on Investigations and Oversight. Hearing, 98th Cong., 1st Sess. Dec. 13, 1983. Washington, U.S. Govt. Print. Off., 1984. 183 p.

Hearing to review status of the federally funded Miami Metrorail light rail transit system project. Discussion includes explanation of an recommendations on Urban Mass Transportation Administration role in management oversight of federally funded construction, included performance of consultants (p. 126-158) and a review of the role of a specific company as construction management consultants to UMTA in Miami (p. 159-176).

U.S. Congress. Senate. Committee on Rules and Administration. Expenditure Authorizations and Requirements for Senate Committee. Committee Print No. 98-262, 98th Cong., 2d Sess. Dec. 28, 1984. Washington, U.S. Govt. Print. Off., 1984. 44 p.

Includes Senate rules on annual and supplemental authorization resolutions and statutes concerning committee use of private consultants (p. 13-20).

1985

U.S. Congress. House. Committee on Appropriations. Subcommittee on Commerce, Justice, State, and the Judiciary Appropriations. Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations for 1986, Part 10. Hearings, 99th Cong., 1st Sess. Mar. 7, 27, Apr. 2, 16, 1985. Washington, U.S. Govt. Print. Off., 1985. 399 p.

Hearings to consider FY86 budget requests of various independent commissions. Inserted in the testimony on the Civil Rights Commission is FY84 fact-finding and other activities summaries with staff and consultant salary costs (p. 51-67).

U.S. Congress. Senate. Committee on Rules and Administration. Expenditure Authorizations and Requirements for Senate Committees. Committee Print No. 99-108, 99th Cong., 1st Sess. Dec. 20, 1985. Washington, U.S. Govt. Print. Off., 1985. 45 p.

Includes statutory excerpts and rules applicable to committee use of private consultants (p. 13-20).

1986

U.S. Congress. House. Committee on Appropriations. Subcommittee on Interior Appropriations. Department of the Interior and Related Agencies Appropriations for 1987, Part 7. Hearings, 99th Cong., 2d Sess. Feb. 18, 20, Mar 3, 10, 11, 18, 1986. Washington, U.S. Govt. Print. Off., 1986. 966 p.

This volume focuses on Department of Energy programs. Within the discussion of the phaseout of the Synthetic Fuels Corporation functions, is an insertion of tables showing Synthetic Fuels Corporation contracts and consulting agreements status as of Jan. 31, 1986 (p. 414-441).

U.S. Congress. Senate. Committee on Rules and Administration. Expenditure Authorizations and Requirements for Senate Committees. Committee Print No. 99-202, 99th Cong., 2d Sess. Dec. 19, 1986. Washington, U.S. Govt. Print. Off., 1986. 45 p.

Includes statutory excerpts and rules applicable to committee use of private consultants (p. 13-20).

SSG:db

United States General Accounting Office

GAO

Fact Sheet for the Honorable
David Pryor, Chairman, Subcommittee
on Federal Services, Post Office, and
Civil Service, Committee on
Governmental Affairs, U.S. Senate

June 1988

GOVERNMENT CONSULTANTS

Agencies' Consulting Services Contract Obligations for Fiscal Year 1987

Printed copies of this document will be available shortly.

GAO/GGD-88-99FS

GAO

United States
General Accounting Office
Washington, D.C. 20548

General Government Division

B-226126

June 23, 1988

The Honorable David Pryor
Chairman, Subcommittee on Federal
Services, Post Office, and
Civil Service
Committee on Governmental Affairs
United States Senate

Dear Mr. Chairman:

This fact sheet responds to your request for information on contracting for consulting services by federal agencies. It contains (1) federal agencies' fiscal year 1987 consulting services contract obligations based on criteria recommended by the President's Cabinet Council on Management and Administration and (2) amounts actually reported by the General Services Administration's (GSA) Federal Procurement Data System (FPDS) as agencies' obligations for consulting services contracts in fiscal year 1987.

We have done considerable work in the past on the use of consultants. Since agencies begin their budget preparation long before the actual budget year starts, they need some flexibility to respond to unforeseen demands. Consultants can play a valuable role in helping agencies achieve their mission effectively and efficiently. However, we have found that the government's use of consultants has been vulnerable to abuse and improprieties.

OBLIGATIONS FOR CONSULTING SERVICES CONTRACTS

Recognizing that substantial underreporting of consulting services contracts was occurring, the Cabinet Council determined that four categories of product/service codes in FPDS were solely for consulting services. The four categories were as follows:

-- Management and Professional Services.
-- Special Studies and Analyses.
-- Technical Assistance.
-- Management Reviews of Program-Funded Organizations.

In addition, the Cabinet Council identified the following seven other categories of product/service codes that could include consulting services:

-- Management and Support Services for Research and Development (excluding procurement actions related to maintenance type services).

-- Technical Representatives (study activities only).

-- Quality Controls (study activities only).

-- Special Medical Services (study activities only).

-- Public Relations (study activities only).

-- Training.

-- Engineering Development and Operational Systems Development Stages of Research and Development.

As discussed in our testimony before your Subcommittee on June 13, 1988, FPDS reported that federal agencies incurred contract obligations of $245 million for consulting services in fiscal year 1987 (see app. III). Using the reporting criteria established by the Cabinet Council increases this amount substantially. Reported obligations under the first four categories identified by the Cabinet Council totaled about $4 billion for fiscal year 1987. The other seven categories identified by the Cabinet Council included contract obligations of over $16 billion. Information is not readily available for determining the extent of consulting services that may be included in the $16 billion. (See apps. I and II.)

OBSERVATIONS RELATED TO CONSULTING SERVICES CONTRACTS

The Office of Management and Budget improved its guidance to federal agencies on the reporting of consulting services contracts in its January 1988 revision to Circular No. A-120. The revised circular generally reflects the categories the Cabinet Council identified as being solely for consulting services. However, the revised circular does not completely cover the seven categories the Cabinet Council determined could involve consulting services. This still leaves agencies with considerable discretion in identifying consulting services contracts, and underreporting could continue.

Also, the revised circular does not address two FPDS limitations that result in underreporting of consulting services contracts. The first relates to contract actions for $25,000 or less. The second relates to contract actions for products or services but for which consulting services do not form the predominant part of the contract obligation.

Agencies are not required to report individual contract actions for $25,000 or less to GSA for entry into the FPDS. Instead, they can aggregate on a consolidated agency statement all such actions without identifying the relevant procurement categories. When contract actions are aggregated in this manner, it is not possible to identify which of the actions were for consulting services. Since our June 13 testimony, we have learned that FPDS reports show that some agencies have individually reported contract actions for $25,000 or less to FPDS even though they are not required to do so. However, information is not readily available to determine the extent to which that has occurred.

The second limitation involves contract actions that include consulting services along with other types of products and/or services. In these cases, FPDS instructions require agencies to identify consulting services obligations only when they constitute the predominant part of these contract actions. Thus, the above $4 billion amount does not include contract actions in which consulting services were not the major part.

SCOPE AND METHODOLOGY

We obtained the fiscal year 1987 contract obligations for each of the procurement categories identified by the President's Cabinet Council on Management and Administration from GSA's FPDS. We did not verify the accuracy of the information obtained. Also, we did not determine the extent to which FPDS reporting system limitations resulted in an understatement of reported obligations for consulting services because data were not readily available to do this.

As you requested, we combined the fiscal year 1987 obligations in the same agency groupings that were included in appropriations bills for fiscal year 1989. The information in this fact sheet includes FPDS reported contract obligations for consulting services for all agencies that are covered by 11 of the 13 appropriations

bills for fiscal year 1989. We did not include agencies covered by the Legislative and District of Columbia appropriations bills because agencies that fall under these appropriations do not report contract obligations to GSA for inclusion in FPDS.

Also, we combined the Department of Defense and Military Construction appropriations bills because reported fiscal year 1987 contract obligations could not be applied to each bill separately. We also summarized FPDS data that agencies identified and reported as consulting services in fiscal year 1987.

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As agreed with you, we will send copies to interested parties and make copies available to others upon request. If we can be of further assistance, please call me on 275-5074.

Sincerely yours,

Bernard L. Ungar

Bernard L. Ungar
Associate Director

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ABBREVIATIONS

ACUS	Administrative Conference of the United States
AID	Agency for International Development
ACDA	Arms Control and Disarmament Agency
BIB	Bureau for International Broadcasting
CFTC	Commodity Futures Trading Commission
CPSC	Consumer Product Safety Commission
EPA	Environmental Protection Agency
EEOC	Equal Employment Opportunity Commission
EOP	Executive Office of the President
FEC	Federal Election Commission
FEMA	Federal Emergency Management Agency
FPDS	Federal Procurement Data System
FTC	Federal Trade Commission
GSA	General Services Administration
HHS	Health and Human Services
HUD	Housing and Urban Development
ICC	Interstate Commerce Commission
MSPB	Merit Systems Protection Board
NARA	National Archives and Records Administration
NASA	National Aeronautics and Space Administration
NFAH	National Foundation for the Arts and Humanities
NGA	National Gallery of Art
NLRB	National Labor Relations Board
NMB	National Mediation Board
NSF	National Science Foundation
NRC	Nuclear Regulatory Commission
OPM	Office of Personnel Management
RRB	Railroad Retirement Board
SEC	Securities and Exchange Commission
SBA	Small Business Administration
SI	Smithsonian Institution
TVA	Tennessee Valley Authority
USIA	United States Information Agency
VA	Veterans Administration

GOVERNMENTWIDE SUMMARY OF ESTIMATED FISCAL YEAR 1987 CONSULTING SERVICES OBLIGATIONS BY APPROPRIATION BILL

Appropriations Bill	Amount identified using Cabinet Council procurement categories		
	4 categories that involve consulting services	7 categories that could involve consulting services	Total 11 categories
Defense/Military Construction	$2,804,331,000	$15,945,932,000	$18,750,263,000
HUD	255,767,000	355,569,000	611,336,000
Labor	127,451,000	226,877,000	354,328,000
Foreign Operations	295,781,000	49,376,000	345,157,000
Energy	193,832,000	73,741,000	267,573,000
Transportation	227,807,000	21,864,000	249,671,000
Commerce	127,401,000	48,116,000	175,517,000
Interior	46,730,000	17,413,000	64,143,000
Agriculture	29,362,000	14,322,000	43,684,000
Treasury	28,770,000	8,974,000	37,744,000
TOTAL	$4,137,232,000	$16,762,184,000	$20,899,416,000

ESTIMATED FISCAL YEAR 1987 CONSULTING SERVICES OBLIGATIONS BY APPROPRIATION BILL

Table II.1:

H.R. 4782 Making Appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies

Department/Agency	Amount identified using Cabinet Council procurement categories		
	4 categories that involve consulting services	7 categories that could involve consulting services	Total 11 categories
Commerce	$37,687,000	$27,370,000	$65,057,000
State	44,393,000	15,081,000	59,474,000
Justice	12,415,000	5,065,000	17,480,000
EEOC	19,547,000	125,000	19,672,000
USIA	7,106,000	312,000	7,418,000
SBA	5,529,000	163,000	5,692,000
ACDA	578,000	0	578,000
FTC	(21,000)	0	(21,000)
SEC	167,000	0	167,000
TOTAL	$127,401,000	$48,116,000	$175,517,000

Table II.2:

H.R. 4784 Making Appropriations for Rural Development, Agriculture, and Related Agencies

Department/Agency	Amount identified using Cabinet Council procurement categories		
	4 categories that involve consulting services	7 categories that could involve consulting services	Total 11 categories
Agriculture	$29,307,000	$14,322,000	$43,629,000
CFTC	55,000	0	55,000
TOTAL	$29,362,000	$14,322,000	$43,684,000

Table II.3:

H.R. 4783 Making Appropriations for the Departments of Labor, Health and Human Services, and Education, and Related Agencies

Department/Agency	Amount identified using Cabinet Council procurement categories		
	4 categories that involve consulting services	7 categories that could involve consulting services	Total 11 categories
Labor	$25,554,000	$144,750,000	$170,304,000
ACTION	826,000	545,000	1,371,000
HHS	30,969,000	81,023,000	111,992,000
Education	68,019,000	366,000	68,385,000
RRB	365,000	193,000	558,000
NLRB	101,000	0	101,000
NMB	1,617,000	0	1,617,000
TOTAL	$127,451,000	$226,877,000	$354,328,000

Table II.4:

H.R. 4637 Making Appropriations for Foreign Operations, Export Financing, and Related Programs

Department/Agency	Amount identified using Cabinet Council procurement categories		
	4 categories that involve consulting services	7 categories that could involve consulting services	Total 11 categories
AID	$295,548,000	$42,678,000	$338,226,000
Peace Corps	233,000	6,698,000	6,931,000
TOTAL	$295,781,000	$49,376,000	$345,157,000

Table II.5:

H.R. 4794 Making Appropriations for the Department of Transportation and Related Agencies

Department/Agency	Amount identified using Cabinet Council procurement categories		
	4 categories that involve consulting services	7 categories that could involve consulting services	Total 11 categories
Transportation	$227,607,000	$21,864,000	$249,471,000
ICC	200,000	0	200,000
TOTAL	$227,807,000	$21,864,000	$249,671,000

Table II.6:

H.R. 4800 Making Appropriations for the Department of Housing and Urban Development, and for Sundry Independent Agencies, Boards, Commissions, Corporations, and Offices

	Amount identified using Cabinet Council procurement categories		
Department/Agency	4 categories that involve consulting services	7 categories that could involve consulting services	Total 11 categories
HUD	$19,308,000	$988,000	$20,296,000
EPA	167,994,000	25,793,000	193,787,000
NASA	2,180,000	252,462,000	254,642,000
FEMA	57,369,000	1,614,000	58,983,000
NSF	1,047,000	25,839,000	26,886,000
VA	6,791,000	48,672,000	55,463,000
CPSC	1,078,000	201,000	1,279,000
TOTAL	$255,767,000	$355,569,000	$611,336,000

Table II.7:

H.R. 4567 Making Appropriations for Energy and Water Development

Department/Agency	Amount identified using Cabinet Council procurement categories		
	4 categories that involve consulting services	7 categories that could involve consulting services	Total 11 categories
Energy	$151,049,000	$67,391,000	$218,440,000
NRC	9,622,000	716,000	10,338,000
TVA	33,161,000	5,634,000	38,795,000
TOTAL	$193,832,000	$73,741,000	$267,573,000

Table II.8:

H.R. 4775 Making Appropriations for the Treasury Department, the United States Postal Service, the Executive Office of the President, and Certain Independent Agencies

Department/Agency	Amount identified using Cabinet Council procurement categories		
	4 categories that involve consulting services	7 categories that could involve consulting services	Total 11 categories
Treasury	$22,696,000	$8,448,000	$31,144,000
GSA	4,558,000	499,000	5,057,000
OPM	389,000	27,000	416,000
ACUS	51,000	0	51,000
MSPB	101,000	0	101,000
FEC	40,000	0	40,000
NARA	397,000	0	397,000
EOP	538,000	0	538,000
TOTAL	$28,770,000	$8,974,000	$37,744,000

Table II.9:

H.R. 4781 and H.R. 4586 Making Appropriations for the Department of Defense and for Military Construction for the Department of Defense

Department/Agency	Amount identified using Cabinet Council procurement categories		
	4 categories that involve consulting services	7 categories that could involve consulting services	Total 11 categories
Defense	$2,804,331,000	$15,945,932,000	$18,750,263,000
TOTAL	$2,804,331,000	$15,945,932,000	$18,750,263,000

Table II.10:

H.R. 4867 Making Appropriations for the Department of the Interior and Related Agencies

Department/Agency	Amount identified using Cabinet Council procurement categories		
	4 categories that involve consulting services	7 categories that could involve consulting services	Total 11 categories
Interior	$46,524,000	$16,213,000	$62,737,000
SI	0	1,200,000	1,200,000
NFAH	179,000	0	179,000
NGA	27,000	0	27,000
TOTAL	$46,730,000	$17,413,000	$64,143,000

FISCAL YEAR 1987 CONSULTING SERVICES OBLIGATIONS REPORTED BY FEDERAL AGENCIES TO THE FPDS

Appropriations bill/department/agency	Reported consulting services obligations for fiscal year 1987
Rural Development, Agriculture, and Related Agencies	
Agriculture	$ 5,852,000
CFTC	55,000
Total	$ 5,907,000
Commerce, Justice, and State, the Judiciary, and Related Agencies	
Commerce	$ 17,677,000
Justice	1,369,000
State	584,000
EEOC	75,000
USIA	0
SBA	60,000
ACDA	0
FTC	0
SEC	0
BIB	30,000
Total	$ 19,795,000
Department of Defense and for Military Construction for the Department of Defense	
Defense	$155,904,000
Total	$155,904,000
Energy and Water Development	
Energy	$ 157,000
NRC	1,206,000
TVA	750,000
Total	$ 2,113,000

Foreign Operations, Export Financing, and Related Programs	
AID	$ 5,057,000
Peace Corps	0
Total	$ 5,057,000
Housing and Urban Development, and for Sundry Independent Agencies, Boards, Commissions, Corporations, and Offices	
HUD	$ 165,000
EPA	10,231,000
NASA	2,774,000
FEMA	7,398,000
NSF	105,000
VA	7,577,000
CPSC	713,000
Total	$ 28,963,000
Department of the Interior and Related Agencies	
Interior	$ 765,000
SI	0
NFAH	0
NGA	701,000
Penn. Ave. Development Corporation	857,000
Total	$ 2,323,000
Labor, Health and Human Services, and Education, and Related Agencies	
Labor	$ 4,266,000
ACTION	0
HHS	11,783,000
Education	2,670,000
RRB	0
NLRB	199,000
NMB	0
Total	$ 18,918,000
Transportation and Related Agencies	
Transportation	$ 529,000
ICC	13,000
Total	$ 542,000

Treasury Department, the United States Postal Service, the Executive Office of the President, and Certain Independent Agencies

Treasury	$ 1,304,000
GSA	4,262,000
OPM	69,000
ACUS	51,000
MSPB	0
FEC	0
NARA	0
EOP	273,000
Total	$ 5,959,000
Total All Agencies	$245,481,000

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